

function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices. The licensee shall subject all persons except bona fide Federal, State, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. Armed security guards who are on duty and have exited the protected area may reenter the protected area without being searched for firearms. When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into protected areas, the licensee shall conduct a physical pat-down search of that individual. Whenever firearms or explosives detection equipment at a portal is out of service or not operating satisfactorily, the licensee shall conduct a physical pat-down search of all persons who would otherwise have been subject to equipment searches. The individual responsible for the last access control function (controlling admission to the protected area) must be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure his or her ability to respond or to summon assistance.

* * * * *

(4) All vehicles, except under emergency conditions, must be searched for items which could be used for sabotage purposes prior to entry into the protected area. Vehicle areas to be searched must include the cab, engine compartment, undercarriage, and cargo area. All vehicles, except as indicated in this paragraph, requiring entry into the protected area must be escorted by a member of the security organization while within the protected area and, to the extent practicable, must be off loaded in the protected area at a specific designated materials receiving area that is not adjacent to a vital area. Escort is not required for designated licensee vehicles or licensee-owned or leased vehicles entering the protected area and driven by personnel having unescorted access. Designated licensee vehicles shall be limited in their use to onsite plant functions and shall remain in the protected area except for operational, maintenance, repair, security and emergency purposes. The licensee shall exercise positive control over all such designated vehicles to assure that they are used only by authorized persons and for authorized purposes.

(5)(i) A numbered picture badge identification system must be used for all individuals who are authorized

access to protected areas without escort. An individual not employed by the licensee but who requires frequent and extended access to protected and vital areas may be authorized access to such areas without escort provided that he or she displays a licensee-issued picture badge upon entrance into the protected area which indicates:

(A) Non-employee no escort required;

(B) Areas to which access is authorized; and

(C) The period for which access has been authorized.

(ii) Badges shall be displayed by all individuals while inside the protected area. Badges may be removed from the protected area when measures are in place to confirm the true identity and authorization for access of the badge holder upon entry into the protected area.

* * * * *

(7) * * *

(i) * * *

(A) Establish a current authorization access list for all vital areas. The access list must be updated by the cognizant licensee manager or supervisor at least once every 31 days and must be reapproved at least quarterly. The licensee shall include on the access list only individuals whose specific duties require access to vital areas during nonemergency conditions.

* * * * *

(8) All keys, locks, combinations, and related access control devices used to control access to protected areas and vital areas must be controlled to reduce the probability of compromise. Whenever there is evidence or suspicion that any key, lock, combination, or related access control devices may have been compromised, it must be changed or rotated. The licensee shall issue keys, locks, combinations and other access control devices to protected areas and vital areas only to persons granted unescorted facility access. Whenever an individual's unescorted access is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related access control devices to which that person had access, must be changed or rotated.

* * * * *

Dated at Rockville, Maryland, this 24th day of November, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97-31515 Filed 12-1-97; 8:45 am]

BILLING CODE 7590-01-P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052-AB78

Loan Policies and Operations; Loan Sales Relief

AGENCY: Farm Credit Administration.

ACTION: Direct final rule with opportunity for comment.

SUMMARY: The Farm Credit Administration (FCA), through the FCA Board (Board), issues a direct final rule amending its regulations relating to loan sales into a secondary market. This action conforms FCA regulations to recent statutory amendments to the Farm Credit Act of 1971, as amended, (Act) made by sections 206 and 208 of the Farm Credit System Reform Act of 1996 (1996 Act). These amendments provide that loans designated by Farm Credit System institutions for sale into a secondary market are not subject to minimum stock purchase or borrower rights requirements.

DATES: If no significant adverse comment is received on or before January 2, 1998, these regulations shall be effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**. If significant adverse comment is received, the FCA will publish a notice of withdrawal of the regulations and indicate how the Agency expects to proceed with further rulemaking.

ADDRESSES: Comments may be submitted via electronic mail to "reg-comm@fca.gov" or facsimile transmission to (703) 734-5784. Comments also may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. Copies of all communications received will be available for review by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: John J. Hays, Policy Analyst, Regulation Development Division, Office of Policy Development and Risk Control, (703) 883-4498, TDD (703) 883-4444; or

William Larsen, Senior Attorney, Legal Counsel Division, Office of General Counsel, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Farm Credit System Reform Act of 1996ⁱ made significant changes in title VIII of the Act, which governs the secondary market for agricultural loans. The 1996 Act also provided regulatory relief to Farm Credit System (FCS) institutions. This rulemaking conforms FCA regulations with provisions of the 1996 Act that grant relief from minimum stock purchase requirements and borrower rights for Loans designated by FCS institutions for sale into a secondary market.ⁱⁱ

I. Changes Pursuant to Section 206 of The 1996 Act

Section 206 of the 1996 Act amended section 4.3A of the Act by granting relief from stock purchase requirements for loans designated for sale into a secondary market. As amended, section 4.3A of the Act establishes that an institution's bylaws may provide that: (1) For loans made on or after enactment of section 206 that are designated for sale into a secondary market, no voting stock or participation certificate (collectively, equity or equities) purchase requirement shall apply; and (2) for loans made before the enactment of section 206 that are sold into a secondary market, all equities purchased with respect to these loans shall, subject to the institution meeting its regulatory minimum permanent capital requirements, be retired. Section 206 further provides that if such designated loans are not sold into a secondary market within 180 days, the otherwise applicable equity purchase requirement shall then apply. However, an institution's bylaws may provide that if a designated loan is subsequently sold into a secondary market, the equities relating to the loan shall be retired.

Pursuant to these amendments to section 4.3A of the Act, the FCA is making conforming amendments to § 614.4335 pertaining to borrower stock requirements. Amended § 614.4335(a) provides that, in general, a borrower must meet the institution's minimum borrower stock purchase requirement as a condition of obtaining a loan. However, under amended § 614.4335(b), an institution's bylaws may provide that the institution's minimum borrower stock purchase requirement does not apply if a loan is designated, at the time the loan is made, for sale into a secondary market. Amended § 614.4335(b) also implements the statutory requirement that if a designated loan is not sold into a secondary market upon the expiration of 180 days, the minimum borrower stock purchase requirement will apply to the loan.

Further reflecting the 1996 Act amendments to section 4.3A of the Act, § 614.4335 is amended to add provisions concerning the retirement of borrower stock for loans sold into a secondary market. Amended § 614.4335(c)(2) states that an institution's bylaws may provide that all outstanding voting stock held by a borrower with respect to a loan shall be retired when the loan is sold into a secondary market. Thus, if the institution's bylaws so provide, if a designated loan is sold into a secondary market after 180 days, all outstanding stock with respect to the loan shall be retired. An institution's bylaws also may provide that all stock held by a borrower with respect to a loan made before the enactment of the 1996 Act and sold into a secondary market shall be retired.

Existing provisions of § 614.4335 that require an institution to meet minimum permanent capital requirements and specify the treatment of loans sold with or without recourse are not affected by the 1996 Act amendments and are redesignated to § 614.4335(c)(1). Finally, amended § 614.4335(d) provides that paragraphs (b)(1) and (c)(2) apply regardless of whether the institution retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

II. Changes Pursuant to Section 208 of The 1996 Act

Section 208 of the 1996 Act amended section 4.14A of the Act by changing the definition of the term "loan" to exclude from that definition loans designated, at the time the loans are made, for sale into a secondary market. The effect of this statutory change is that the borrower rights provisions of the Act do not apply to loans designated, at the time the loans are made, for sale into a secondary market.ⁱⁱⁱ As is the case with respect to the reattachment of stock purchase requirements under section 206 of the 1996 Act, if a designated loan is not sold into a secondary market within 180 days of designation, borrower rights become applicable unless and until the loan is subsequently sold into a secondary market.

The FCA is amending § 614.4336 in order to conform it to amended section 4.14A of the Act. Amended § 614.4336 sets forth treatment of borrower rights in three loan sale situations: (1) Loan sales to Farm Credit System institutions; (2) loans designated for sale into a secondary market; and (3) other loan sales. Under amended § 614.4336(a), a loan sold to another qualified lender retains borrower rights. Under amended § 614.4336(b), loans made on or after February 10, 1996, that are designated at

the time they are made for sale into a secondary market are not subject to borrower rights, unless the loan is not sold within 180 days of the date of designation. After 180 days, borrower rights apply to a designated loan unless and until it is subsequently sold into a secondary market. Amended § 614.4336(c) retains the notice and relinquishment provisions that currently apply to loan sales to other lenders.

In addition to amending the definition of "loan" in section 4.14A of the Act to remove borrower rights protections from loans designated for sale into a secondary market, section 208(b) of the 1996 Act applied the amended definition of "loan" to section 8.9(b) of the Act, effectively removing the section 8.9(b) borrower rights protections that applied before a loan was sold into the secondary market for agricultural loans established by title VIII of the Act. This statutory change requires the removal of current § 614.4367(b) to conform FCA regulations to the amended Act. In its current form, § 614.4367(b) implemented section 8.9(b) of the Act by requiring certain disclosures for loans that will or may be pooled for sale into the secondary market. The required disclosures included notice that an applicant could refuse to have his or her loan pooled and thus retain statutory borrower rights.

Disclosure was also required that, within 3 days of commitment, the applicant had the right to refuse to allow the loan to be pooled. Because section 208 of the 1996 Act effectively provides that borrower rights do not apply to loans designated for sale into a secondary market, the disclosures and approvals required by § 614.4367(b) no longer apply. Accordingly, the FCA is removing paragraph (b) of § 614.4367 and redesignating the remaining paragraphs.

In the event that a designated loan is not sold into the secondary market within 180 days, the terms of the borrower's loan will change in two material respects. The borrower is required to purchase stock, which will increase the effective interest rate on the loan. The borrower will also be entitled to borrower rights under the Act. Institutions should ensure that borrowers fully understand their obligations and rights at the time the loan is made. The FCA has not included special disclosure obligations for loans designated for sale into the secondary market because the existing requirements of § 614.4367 are sufficient to ensure that borrowers are appropriately informed of: (1) Their obligation to purchase stock if the loan

is not sold as intended; (2) the change in the effective interest rate resulting from the stock purchase requirement; and (3) the borrower rights that will apply.

III. Direct Final Rulemaking

With the promulgation of these regulations, the FCA is using, for the first time, the "direct final" procedure for rulemaking. Direct final rulemaking permits agencies to adopt noncontroversial rules on an expedited basis, without going through the usual proposal and final stages of notice-and-comment rulemaking. Direct final rulemaking was recommended for promulgation of noncontroversial rules by the Administrative Conference of the United States (ACUS) in its Recommendation 95-4, adopted June 15, 1995. Vice President Gore also recommended direct final rulemaking in his report on the National Performance Review (NPR) as a means for agencies to streamline the rulemaking process. See "Improving Regulatory Systems," Accompanying Report of the NPR, September, 1993.

The FCA is committed to the use of innovative rule-making techniques to further its strategic goal of implementing effective and efficient regulations. The FCA believes that the use of direct final rulemaking in appropriate circumstances offers the means to streamline the rulemaking process for noncontroversial rules by reducing the time and resources needed for development, review, clearance, and publication, while still affording the public adequate opportunity to comment on or object to a rule.

In direct final rulemaking, the agency gives notice that a rule will become final at a specified future date unless the agency receives significant adverse comment on the rule during the comment period established in the rulemaking notice. The Administrative Procedure Act, 5 U.S.C. 551-59, *et seq.* (APA), supports this streamlined technique of rulemaking. Direct final rulemaking is justified under section 553(b)(B) of the APA. Section 553(b)(B) is the APA's "good cause" exemption for omitting notice and comment on a rule where an agency finds "that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." In direct final rulemaking, the agency finds that the rule is sufficiently straightforward and noncontroversial to make normal notice and comment unnecessary under the APA. However, rather than eliminating public comment altogether, as would be permissible under section 553(b)(B), the agency gives the public an opportunity

to rebut the agency's conclusion that public input on the rule is unnecessary.

Notwithstanding this "good cause" rationale under section 553(b)(B), direct final rulemaking also meets the basic notice-and-comment requirements of the APA, although the timing and format of notice and opportunity for comment necessarily differs from a typical notice-and-comment rulemaking. If, during the comment period provided, the agency receives a significant adverse comment on a direct final rule, the agency commits to withdraw the rule and may either issue another direct final rule or promulgate the rule in proposed form. A significant adverse comment is defined as one where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the agency in a notice-and-comment proceeding.

The FCA believes that the secondary market loan sale amendments fit the category of rules appropriate for direct final rulemaking. These changes merely conform the regulations to the 1996 Act. The changes remove or amend current regulatory requirements that do not reflect the changes in the Act. As such, the changes are straightforward and noncontroversial. For these reasons, the FCA does not anticipate that there will be significant adverse comment on this rulemaking. Nonetheless, in keeping with the procedures recommended by ACUS for direct final rulemaking, the FCA is providing a 30-day period from publication during which members of the public may comment on the rule. If significant adverse comment is received during the comment period, the FCA will publish a notice of withdrawal of the rule that will also indicate how further rulemaking will proceed. If no significant adverse comment is received, the FCA will publish its customary notice of the effective date of the rule following the required Congressional waiting period under section 5.17(c)(1) of the Act.

List of Subjects in 12 CFR Part 614

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

For the reasons set out in the preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 is revised 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, 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, 4.3A, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5, 8.9 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2154a, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2, 2279f, 2279f-1, 2279aa, 2279aa-5, 2279aa-9); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

Subpart H—Loan Purchases and Sales

2. Sections 614.4335 and 614.4336 are revised to read as follows:

§ 614.4335 Borrower stock requirements.

(a) *In general.* Except as provided in paragraph (b) of this section, a borrower shall meet the institution's minimum borrower stock purchase requirements as a condition of obtaining a loan.

(b) *Loans designated for sale into a secondary market.* (1) An institution's bylaws may provide that the institution's minimum borrower stock purchase requirements do not apply if a loan is designated, at the time it is made, for sale into a secondary market.

(2) If a loan designated for sale under paragraph (b)(1) of this section is not sold into a secondary market during the 180-day period that begins on the date of designation, the institution's minimum borrower stock purchase requirements shall apply.

(c) *Retirement of borrower stock.* (1) *In general.* Borrower stock may be retired only if the institution meets the minimum permanent capital requirements imposed by the FCA pursuant to the Act or regulations and, except as provided in paragraph (c)(2) of this section, in accordance with the following:

(i) Borrower stock may be retired if the entire loan is sold without recourse, provided that when the loan is sold without recourse to another Farm Credit System institution, the borrower may elect to hold stock in either the selling or purchasing institution.

(ii) Borrower stock may not be retired when the entire loan is sold with recourse.

(iii) When an interest in a loan is sold without recourse, a proportionate amount of borrower stock may be

retired, but in no event may stock be retired below the institution's minimum stock purchase requirements for the interest retained.

(iv) If an institution repurchases a loan on which the stock has been retired, the borrower shall be required to repurchase stock in the amount of the minimum stock purchase requirement.

(2) *Loans sold into a secondary market.* An institution's bylaws may provide that all outstanding voting stock held by a borrower with respect to a loan shall be retired when the loan is sold into a secondary market.

(d) *Applicability.* In the case of a loan sold into a secondary market under title VIII of the Act, paragraphs (b)(1) and (c)(2) of this section apply regardless of whether the institution retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

§ 614.4336 Borrower rights in connection with loan sales.

(a) *Loan sales to Farm Credit System institutions.* Loans made by qualified lenders (as defined in section 4.14A(a)(6) of the Act) and interests in such loans that are sold to other qualified lenders are subject to the borrower rights provisions of title IV of the Act.

(b) *Loans designated for sale into a secondary market.* (1) Except as provided in paragraph (b)(2) of this section, the borrower rights provisions of sections 4.14, 4.14A, 4.14B, 4.14C, 4.14D, and 4.36 of the Act do not apply to a loan made on or after February 10, 1996, that is designated for sale into a secondary market at the time it is made.

(2) If a loan designated for sale under paragraph (b)(1) of this section is not sold into a secondary market during the 180-day period that begins on the date of designation, the borrower rights provisions specified as inapplicable pursuant to paragraph (b)(1) of this section shall apply, *provided that* if the loan is subsequently sold into a secondary market, the borrower rights specified in paragraph (b)(1) of this section become inapplicable beginning on the date of the subsequent sale.

(c) *Other loan sales.* (1) Except for loans sold to another Farm Credit institution or designated for sale into a secondary market, a qualified lender must comply with one of the following two requirements before selling a loan or interest in a loan that is subject to the borrower rights provisions of title IV of the Act:

(i) Include provisions in the contract with the borrower, or a written modification thereto, that ensure that the purchaser of the loan will be

obligated to accord the borrower the same rights qualified lenders must provide under the Act; or

(ii) Obtain from the borrower a signed written consent to the sale that explicitly states that the borrower relinquishes the statutory borrower rights. The consent to the loan sale and the relinquishment of the borrower rights shall have no effect until the loan is actually sold and shall be ineffective in the event that the lender or any other Farm Credit System institution repurchases the loan or any interest therein.

(2) Before obtaining the borrower's consent to the sale of the loan and the relinquishment of borrower rights pursuant to paragraph (c)(1)(ii) of this section, the lending institution shall disclose in writing to the borrower:

(i) A full and complete description of the statutory rights that the borrower is asked to relinquish;

(ii) Any changes in the loan terms or conditions that will occur if the loan is not sold; and

(iii) The fact that the relinquishment of the statutory borrower rights will not become effective unless the loan is actually sold and shall become ineffective in the event that the lender or any other Farm Credit System institution repurchases the loan or any interest therein.

(3) The making of a loan may not be conditioned on the borrower's consent to its sale and relinquishment of statutory borrower rights.

Subpart K—Disclosure of Loan Information

§ 614.4367 [Amended]

3. Section 614.4367 is amended by removing paragraph (b) and redesignating paragraphs (c) through (e) as paragraphs (b) through (d).

Dated: November 24, 1997.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

¹ Pub. L. 104-105 (February 10, 1996).

ⁱⁱ Generally, for each loan made by a qualified lender, a borrower is subject to minimum stock purchase requirements of 2 percent of the loan or \$1,000, whichever is less. The borrower rights provisions of the Act impose certain disclosure and other obligations on lenders.

ⁱⁱⁱ The specific borrower rights under the Act that are affected by the section 4.14A definitional change include reconsideration of actions (sec. 4.14), restructuring distressed loans (sec. 4.14A), effect of restructuring on borrower stock (sec. 4.14B), review of restructuring denials (sec. 4.14C), protection of borrowers who meet all loan obligations (sec. 4.14D), and right of first refusal (sec. 4.36).

As enacted, the language of section 208 of the 1996 Act amending the definition of "loan" leaves

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 93P-0448]

Food Labeling; Serving Sizes; Reference Amount for Salt, Salt Substitutes, Seasoning Salts (e.g., Garlic Salt)

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the nutrition labeling regulations to change the reference amount customarily consumed per eating occasion for the food category "Salt, salt substitutes, seasoning salts (e.g., garlic salt)" from a weight-based reference amount of 1 gram (g) to a volume-based reference amount of 1/4 teaspoon (tsp). This action is necessary to provide consistency with the agency's criteria for determining volume-based versus weight-based reference amounts for all product categories.

DATES: Effective January 1, 2000. This regulation applies to all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin January 2, 1998. Written comments on the information collection provisions should be submitted by January 2, 1998.

ADDRESSES: Submit written comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St.

no doubt that Congress intended to include the section 4.36 borrower's right of first refusal among the borrower rights that become inapplicable when a loan is designated for sale into a secondary market. This is consistent with section 8.9(a) of the Act, which specifically exempts loans pooled under title VIII from section 4.36 borrower rights. However, section 208 of the 1996 Act did not amend the introductory paragraph of section 4.14A(a), which limits the applicability of the section's definitions to those "used in this part [C of title IV]." Since section 4.36 is located in part G ("Miscellaneous") of title IV, it could technically be argued that the amended definition of "loan" does not apply to section 4.36. Notwithstanding this apparent drafting inconsistency, the FCA believes Congressional intent is clear and interprets the 1996 Act to exempt loans designated for sale into a secondary market from the section 4.36 borrower's right of first refusal.