

under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

12 CFR CHAPTER XIV—FARM CREDIT SYSTEM INSURANCE CORPORATION

2. Part 1401.1 is added to read as follows:

PART 1401—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Authority: 5 U.S.C. 7301; 12 U.S.C. 2277a-7.

§ 1401.1 Cross-references to employee ethical conduct standards and financial disclosure regulations.

Board members, officers, and other employees of the Farm Credit System Insurance Corporation are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the Farm Credit System Insurance Corporation regulation at 5 CFR part 4001, which supplements the Executive Branch-wide Standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

[FR Doc. 95-14215 Filed 6-9-95; 8:45 am]

BILLING CODE 6710-01-P

FARM CREDIT ADMINISTRATION

5 CFR Part 4101

12 CFR Part 601

RIN 3052-AB50, 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Farm Credit Administration

AGENCY: Farm Credit Administration (FCA or Agency).

ACTION: Interim rule; request for comments.

SUMMARY: The Farm Credit Administration, with the concurrence of the Office of Government Ethics (OGE), is issuing as an interim rule regulations for the officers and employees of the FCA that supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Executive Branch-wide Standards) issued by OGE. The interim rule is a necessary supplement to the Executive Branch-wide Standards because it addresses ethical issues unique to FCA programs and operations. The interim rule establishes regulations imposing prohibitions on the ownership of certain financial interests; prohibitions on certain forms of borrowing and extensions of credit; limitations on purchases of assets

owned by Farm Credit System (System) institutions, conservatorship or receivership assets, or certain assets held by the Farm Credit System Insurance Corporation (Corporation); restrictions arising from the employment of relatives; a prohibition against involvement in Farm Credit System board member elections; and restrictions on outside employment and business activities. The FCA is also repealing its current regulations on these subjects and replacing them with a single section that provides cross-references to the Executive Branch-wide Standards and financial disclosure regulations, as well as these new supplemental regulations.

DATES: This interim rule is 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 effective date will be published in the **Federal Register**. Comments must be submitted on or before July 12, 1995.

ADDRESSES: Comments should be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all comments will be available for examination by interested parties in Regulation Development, Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Eric Howard, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, or

Wendy R. Laguarda, Senior Attorney and Deputy Ethics Official, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4234, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published Executive Branch-wide Standards for employees of the executive branch. See 57 FR 35006-35067, as corrected at 57 FR 48557 and FR 52583, with additional grace period extensions at 59 FR 4779-4780 and 60 FR 6390-6391. The Executive Branch-wide Standards are codified at 5 CFR part 2635. Effective February 3, 1993, they established uniform ethical conduct standards applicable to all executive branch personnel.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch

agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. The FCA, with OGE's concurrence, has determined, in light of the FCA's unique programs and operations, that the following supplemental regulations, being codified in new chapter XXXI, consisting of part 4101, of 5 CFR, are necessary to implement the Agency's ethics program successfully.

II. Analysis of the Regulations

Section 4101.101—General

Section 4101.101 explains that the regulations contained in the interim rule apply to FCA employees and supplement the Executive Branch-wide Standards. Farm Credit Administration employees must comply with the Executive Branch-wide Standards, the supplemental regulations in this interim rule, and FCA guidance and procedures issued pursuant to the Executive Branch-wide Standards and these supplemental regulations.

Section 4101.102—Definitions

Section 4101.102 identifies and defines the unique terms used in the supplemental regulations. The term "covered employee" is intended to include all FCA examiners and any other employee specified as such by FCA directive whose duties and responsibilities require application of these supplemental regulations to ensure public confidence that the FCA's programs are conducted impartially and objectively. The FCA Designated Agency Ethics Official (DAEO) or his or her designee, in consultation with the Office Directors, will determine which employees are covered for purposes of this regulation.

The term "related entity" is intended to be broadly interpreted and includes agricultural mortgage marketing facilities established by System institutions, affiliates of the Federal Agricultural Mortgage Corporation, service organizations established by the System banks, and all other entities owned or controlled by one or more System institutions that are not chartered by the FCA.

The term "System institution" refers to all institutions chartered and regulated by the FCA, and also includes the Federal Farm Credit Banks Funding Corporation and the Federal Agricultural Mortgage Corporation.

Section 4101.103—Prohibited Financial Interests

(a) *Prohibition.* Section 4101.103(a) prohibits a covered employee, or a

spouse or minor child of a covered employee, from owning securities issued by a System institution or related entity.

The FCA has determined, in accordance with 5 CFR 2635.403(a), that this restriction is necessary, in light of the Agency's sensitive regulatory, supervisory, examination, and enforcement functions, to maintain public confidence in the impartiality and objectivity with which the FCA executes its functions. The restriction will eliminate any reason for regulated entities to be concerned that sensitive information provided to the FCA might be misused for private gain and will avoid widespread disqualification of employees from official matters, which might result in the FCA's inability to fulfill its mission.

(b) *Definition of Securities.* Section 4101.103(b) contains a definition of the term "securities" to be applied to § 4101.103. It includes any "interest in debt or equity instruments" such as, for example, stocks, bonds, and commercial paper.

(c) *Exceptions.* Section 4101.103(c) includes several exceptions to the prohibition in § 4101.103(a) against owning securities issued by System institutions or related entities. The exceptions are intended to permit ownership interests of a character unlikely to raise questions regarding the objective and impartial performance of FCA employees' official duties or the possible misuse of their positions.

Section 4101.103(c) (1) and (2) permits employees to retain System securities that are in certain funds or plans, the assets of which are managed by an independent third party and are not concentrated in System securities. Such funds may include a publicly traded or publicly available investment fund or an employee's interest in a qualified profit sharing, retirement, or similar plan.

Section 4101.103(c)(3) permits employees to retain securities of System institutions held, in accordance with § 4101.104(b), as a result of pre-existing credit. This exception is necessary because the System institutions are borrower-owned institutions that require eligible borrowers to purchase a minimum amount of an institution's stock as a condition of obtaining a loan. Thus, if an employee has pre-existing credit from a System institution, he or she also will own stock in the institution, which is generally not retired until after the loan is paid off.

Section 4101.103(c)(4) is included as a specific cross-reference to the waiver authority at § 4101.109 which is to be used on a case-by-case basis.

Section 4101.104—Prohibited Borrowing

(a) *Prohibition on Employee Borrowing.* Section 4101.104(a) prohibits a covered employee, or a spouse or minor child of a covered employee, from seeking or obtaining a loan or extension of credit from a System institution or an officer, director, employee, or related entity of a System institution.

Imposed pursuant to 5 CFR 2635.403(a), this prohibition on borrowing is necessary for several reasons. First, it is necessary to prevent covered employees from obtaining or appearing to obtain loans or extensions of credit on preferential terms, or from benefiting or appearing to benefit from their official positions through possible forbearance by the lender in collecting on the indebtedness. Public confidence in the impartiality and objectivity with which FCA programs are administered will be strengthened by prohibiting FCA employees from engaging in financial transactions with institutions regulated by the Agency. The borrowing prohibition also will help to ensure that FCA examiners and regulated institutions do not violate the prohibitions in 18 U.S.C. 212 and 213 against the offer and acceptance of certain loans. Finally, limitations on FCA employees borrowing from regulated institutions will result in fewer employee disqualifications from official matters, thereby avoiding a situation that would have a detrimental effect on the FCA's ability to carry out its mission.

(b) *Exception.* Section 4101.104(b) serves to clarify that § 4101.104(a) only prohibits covered employees and their spouses and minor children from seeking or obtaining loans or extensions of credit. Thus, a covered employee, or a spouse or minor child of a covered employee, is not prohibited from retaining a loan from a System institution on its original terms if the loan was obtained prior to appointment to a covered employee position at FCA. The renewal or renegotiation of a pre-existing loan or extension of credit, however, will be treated as a new loan subject to the prohibition in § 4101.104(a), but an employee may request, pursuant to the waiver provision in § 4101.109, that an exception be made. Employees who retain pre-existing credit, by virtue of their own credit or credit of a spouse or minor child, will be required to disqualify themselves from participation in the regulation, supervision, examination, audit, visitation, review, investigation, or other particular matter

involving the System institution providing the retained credit.

Section 4101.105—Purchase of System Institution Assets

(a) *Prohibition on Purchasing Assets Owned by a System Institution.* Section 4101.105(a) prohibits a covered employee, or a spouse or minor child of a covered employee, from purchasing assets from a System institution or related entity. Assets sold by public auction or by a method that ensures that the asset is sold at its fair market value are exempt from this prohibition. Covered employees are required to obtain concurrence from the DAEO, however, about the applicability of this exemption.

(b) *Assets Held or Managed by the Farm Credit System Insurance Corporation or a Receiver or Conservator.* Section 4101.105(b)(1) prohibits a covered employee, or a spouse or minor child of a covered employee, from purchasing assets held or managed by a receiver or conservator for a System institution or by the Corporation as a result of its provision of open bank assistance to troubled System banks regardless of how the asset is sold. This section prohibits the purchase of such assets held by a receiver or conservator appointed by the FCA prior to January 1, 1993, as well as assets held by the Corporation, which is the only entity FCA may appoint as receiver or conservator of troubled System institutions starting January 1, 1993.

Section 4101.105(b)(2) requires a covered employee who is involved in the disposition of receivership or conservatorship assets to disqualify himself from a sales transaction when the employee becomes aware that anyone with whom he holds a covered relationship, as defined in § 2635.502(b)(1) of the Executive Branch-wide Standards, is or will be attempting to acquire receivership or conservatorship assets.

The prohibitions in § 4101.105 are intended to supplement the provisions of 5 CFR 2635.702 regarding use of public office for private gain and to preserve public confidence in the impartiality and objectivity with which FCA programs and operations are administered. They are necessary to prevent employees from purchasing or appearing to purchase assets on preferential terms, or from benefiting or appearing to benefit from their official positions by purchasing assets based on information obtained in the course of the employees' performance of their official duties.

Section 4101.106—Restrictions Arising From the Employment of Relatives

Section 4101.106 requires a covered employee to file a report of family member employment with his or her immediate supervisor, the ethics liaison in the office, and the DAEO if the covered employee's spouse or a relative who is dependent on or resides with the covered employee is employed with an entity specified in § 4101.108(a). The employee would be disqualified from participating in any matter involving the employee's spouse or relative, or the employing entity, unless the employee received the appropriate authorization pursuant to the standard in § 2635.502(d) of the Executive Branch-wide Standards.

In effect, § 4101.106 supplements § 2635.502 of the Executive Branch-wide Standards, relating to impartial performance of official duties, and is necessary to ensure that the employment of a close family member by System institutions or related entities does not interfere with the objective and impartial execution of a covered employee's official duties. The requirements of § 4101.106 will help to ensure public confidence in the FCA's execution of its mission.

Section 4101.107—Involvement in System Institution Board Member Elections

Section 4101.107 prohibits those covered employees who own stock in a System institution, by virtue of retaining a pre-existing loan or extension of credit from a System institution in accordance with § 4101.104(b), from participating in a stockholder nomination or election of a System institution's board members, other than by exercising their right to vote. In addition, this section prohibits covered employees from making any oral or written statements that could be reasonably construed as an attempt to influence a nomination or election.

Section 4101.107 supplements § 2635.702 of the Executive Branch-wide Standards by prohibiting conduct that, given the broad power of the Agency over System institutions, is likely to give rise to an appearance of misuse of official authority.

Section 4101.108—Outside Employment and Business Activity

(a) *Prohibition.* Section 4101.108(a) supplements § 2635.802 of the Executive Branch-wide Standards by prohibiting covered employees from engaging in specified outside employment and activities. Covered employees are prohibited from performing paid or unpaid services for

any System institution or related entity, or any officer, director, employee, or person connected with a System institution or related entity. This regulation is based, in part, on 18 U.S.C. 1909, which prohibits an FCA examiner from performing any service for compensation for any System institution or for any person connected therewith, such as persons working on a contract basis for a System institution. It is expanded to cover persons other than examiners in order to ensure that covered employees do not engage in outside activities that are likely to appear to interfere with the objective and impartial performance of their official duties.

(b) *General Requirement for Prior Approval.* Pursuant to § 2635.803 of the Executive Branch-wide Standards, agencies may, by supplemental regulation, require employees to obtain prior approval before engaging in outside employment or activities. Under 12 CFR 601.101, FCA has required employees who engage in outside employment to seek prior approval. Based on its finding that this requirement has helped ensure that employees' outside activities conform to applicable statutes and regulations, FCA has determined that continuing this requirement is necessary for the purposes of its ethics program. Thus, § 4101.108(b) requires all employees to obtain written approval from the DAEO before engaging in any outside employment, with or without compensation. This section also provides that approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and these supplemental regulations.

(c) *Definition.* The term "employment" is broadly defined at § 4101.108(c) to cover any form of non-Federal employment or business relationship involving the provision of personal services, including writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of nonprofit charitable, religious, professional, social, fraternal, and similar organizations for which no compensation is received other than reimbursement for necessary expenses.

Section 4101.109—Waivers

Section 4101.109 gives the DAEO authority to grant a written waiver of any provision in part 4101 based upon a determination that the waiver is not inconsistent with law and the Executive

Branch-wide Standards, and meets the waiver standard established in § 4101.109. An employee may be required under the waiver to disqualify himself or herself from a particular matter or take other appropriate action.

The waiver provision is intended, in appropriate cases, to ease the burden that the supplemental regulations may impose on the private lives of FCA employees, while ensuring that employees do not engage in actions that may interfere with the objective and impartial execution of their official duties or raise questions about possible misuse of their official positions.

III. Repeal of FCA Employee Responsibilities and Conduct Regulations

On the effective date of the interim rule, the FCA's regulations on Employee Responsibilities and Conduct, 12 CFR part 601, will be amended to remove §§ 601.100–601.102. A new § 601.100 will be added to provide a cross-reference to FCA's supplemental ethical conduct regulation, to be codified at 5 CFR part 4101, and to the Executive Branch-wide financial disclosure and standards of ethical conduct regulations at 5 CFR parts 2634 and 2635. Most sections of 12 CFR part 601 were removed and certain sections reserved by action of the FCA Board, dated January 25, 1993, 58 FR 5919.

IV. Matters of Regulatory Procedure*Administrative Procedure Act*

Pursuant to 5 U.S.C. 553 (b) and (d), the FCA finds good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to this interim final rule. The notice and delayed effective date are being waived because these supplemental regulations for FCA employees and their families concern matters of Agency organization, practice and procedure and because it is in the public interest that these supplemental regulations be effective as soon as possible. The FCA is, however, issuing these regulations as an interim rule, with a request for comments, and will consider any comments received when adopting the regulations in final form.

Executive Order 12866

In promulgating these interim supplemental regulations, the FCA has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This interim rule deals with Agency organization, management, and personnel matters and

is, therefore, not deemed "significant" under Executive Order 12866.

Regulatory Flexibility Act

It is hereby certified that this interim rule will not have significant economic impact on a substantial number of small entities. This rule affects only Federal employees and their immediate families.

Paperwork Reduction Act

It is hereby certified that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects

5 CFR Part 4101

Conflicts of interests, Government employees.

12 CFR Part 601

Conflict of interests.

Dated: May 10, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration.

Approved: May 30, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Farm Credit Administration, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and part 601 of chapter VI, title 12, of the Code of Federal Regulations to read as follows:

Title 5—[Amended]

1. A new chapter XXXI, consisting of part 4101, is added to title 5 of the Code of Federal Regulations to read as follows:

CHAPTER XXXI—FARM CREDIT ADMINISTRATION

PART 4101—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FARM CREDIT ADMINISTRATION

Sec.

- 4101.101 General.
- 4101.102 Definitions.
- 4101.103 Prohibited financial interests.
- 4101.104 Prohibited borrowing.
- 4101.105 Purchase of System institution assets.
- 4101.106 Restrictions arising from the employment of relatives.
- 4101.107 Involvement in System institution board member elections.
- 4101.108 Outside employment and business activity.
- 4101.109 Waivers.

Authority: 5 U.S.C. 7301, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 2245(c)(2)(C), 2252; E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403(a), 2635.502, 2635.702, 2635.802(a), 2635.803.

§ 4101.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to Farm Credit Administration (FCA) employees and supplement the Standards of Ethical Conduct for Employees of the executive branch contained in 5 CFR part 2635. Employees are required to comply with 5 CFR part 2635, this part, and Agency guidance and procedures established pursuant to 5 CFR 2635.105.

§ 4101.102 Definitions.

For purposes of this part:

(a) *Covered employee* means:

- (1) Examiners; and
- (2) Any other employee specified by FCA directive whose duties and responsibilities require application of these supplemental regulations to ensure public confidence that the FCA's programs are conducted impartially and objectively. The FCA Designated Agency Ethics Official (DAEO) or his or her designee, in consultation with the Office Directors, will determine which employees are covered for the purpose of this part.

(b) *Related entity* means:

- (1) Affiliates defined in section 8.5(e) of the Farm Credit Act of 1971, as amended (Act), 12 U.S.C. 2001 *et seq.*, 12 U.S.C. 2279aa-5;
- (2) Affiliates defined in section 8.11(e) of the Act, 12 U.S.C. 2279aa-11;
- (3) Service organizations authorized by section 4.25 of the Act, 12 U.S.C. 2211; and
- (4) Any other entity owned or controlled by one or more Farm Credit System (System) institution that is not chartered by the FCA.

(c) *System institution* refers to:

- (1) All institutions chartered and regulated by the FCA as described in section 1.2 of the Act, 12 U.S.C. 2002;
- (2) The Federal Farm Credit Banks Funding Corporation, established pursuant to section 4.9 of the Act, 12 U.S.C. 2160; and
- (3) The Federal Agricultural Mortgage Corporation, established pursuant to section 8.1 of the Act, 12 U.S.C. 2279aa-1.

§ 4101.103 Prohibited financial interests.

(a) *Prohibition.* Except as provided in paragraph (c) of this section and § 4101.109, no covered employee, or spouse or minor child of a covered employee, shall own, directly or

indirectly, securities issued by a System institution or related entity.

(b) *Definition of securities.* For purposes of this section, the term "securities" includes all interests in debt or equity instruments. The term includes, without limitation, secured and unsecured bonds, debentures, notes, securitized assets and commercial paper, as well as all types of preferred and common stock. The term encompasses both current and contingent ownership interests, including any beneficial or legal interest derived from a trust. It extends to any right to acquire or dispose of any long and short position in such securities and includes, without limitation, interests convertible into such securities, as well as options, rights, warrants, puts, calls, and straddles relating to such securities.

(c) *Exceptions.* Nothing in this section prohibits a covered employee, or spouse or minor child of a covered employee, from:

- (1) Investing in a publicly traded or publicly available investment fund which, in its prospectus, does not indicate the objective or practice of concentrating its investments in the securities of System institutions or related entities, and the employee neither exercises control over nor has the ability to exercise control over the financial interests held in the fund;
- (2) Having a legal or beneficial interest in a qualified profit sharing, retirement, or similar plan, provided that the plan does not invest more than 25 percent of its funds in securities of System institutions or related entities, and the employee neither exercises control over nor has the ability to exercise control over the financial interests held in the plan;
- (3) Owning securities of System institutions held as a result of pre-existing credit, as specified in § 4101.104(b); or
- (4) Owning any security pursuant to a waiver granted under § 4101.109.

§ 4101.104 Prohibited borrowing.

(a) *Prohibition on employee borrowing.* Except as provided in paragraph (b) of this section, no covered employee, or spouse or minor child of a covered employee, shall seek or obtain any loan or extension of credit from a System institution or from an officer, director, employee, or related entity of a System institution.

(b) *Exception.* This section does not prohibit a covered employee, or spouse or minor child of a covered employee, from retaining a loan from a System institution on its original terms if the loan was obtained prior to appointment

to a covered employee position. For loans retained pursuant to this paragraph, a covered employee shall submit to his or her immediate supervisor, the ethics liaison in his or her office, and the DAEO, a written disqualification from examining, auditing, visiting, reviewing, investigating, or otherwise participating in the supervision of the System institution that is providing the retained credit. Written disqualification shall be made within 30 days of appointment to a covered employee position on a form prescribed by the DAEO. Any renewal or renegotiation of a pre-existing loan or extension of credit will be treated as a new loan subject to the prohibition in paragraph (a) of this section.

§ 4101.105 Purchase of System institution assets.

(a) *Prohibition on purchasing assets owned by a System institution.* No covered employee, or spouse or minor child of a covered employee, shall purchase, directly or indirectly, an asset (such as real property, vehicles, furniture, or similar items) from a System institution or related entity, unless it is sold at a public auction or by other means which assure that the selling price is the asset's fair market value. A covered employee shall obtain concurrence from the DAEO about whether a proposed purchase of a System institution asset is proper.

(b) *Assets held or managed by the Farm Credit System Insurance Corporation or a receiver or conservator—(1) Prohibition on purchase.* No covered employee, or spouse or minor child of a covered employee, shall purchase, directly or indirectly, an asset (such as real property, vehicles, furniture, or similar items) that is held or managed by a receiver or conservator for a System institution or that is held by the Farm Credit System Insurance Corporation (Corporation) as a result of its provision of open bank assistance to troubled System banks regardless of how the asset is sold.

(2) *Disqualification.* A covered employee who is involved in the disposition of receivership or conservatorship assets, or assets acquired by the Corporation as a result of its provision of open bank assistance to troubled System banks, shall disqualify himself or herself from participation in the disposition of such assets when the employee becomes aware that anyone with whom the employee has a covered relationship, as defined in § 2635.502(b)(1) of the Executive Branch-wide Standards, is or will be attempting to acquire such

assets. The employee shall provide written notification of the disqualification to his or her immediate supervisor, the ethics liaison in his or her office, and the DAEO.

§ 4101.106 Restrictions arising from the employment of relatives.

When the spouse of a covered employee, or other relative who is dependent on or resides with a covered employee, is employed in a position that the employee would be prohibited from occupying by § 4101.108(a), the employee shall file a report of family member employment with his or her immediate supervisor, the ethics liaison in his or her office, and the DAEO on a form prescribed by the DAEO. Notice shall be made as soon as possible after learning about employment already in existence or in advance of known prospective employment. The employee shall be disqualified from participation in any matter involving the employee's spouse or relative, or the employing entity, unless the DAEO authorizes the employee to participate in the matter using the standard in § 2635.502(d) of the Executive Branch-wide Standards.

§ 4101.107 Involvement in System institution board member elections.

No covered employee who is able to participate in a System institution board election because of System securities owned by virtue of retaining a pre-existing loan or extension of credit from a System institution in accordance with § 4101.104(b) shall take any part, directly or indirectly, in the nomination or election of a board member of a System institution, other than by exercising the right to vote. In addition, a covered employee shall not make any oral or written statement that may be reasonably construed as intending to influence any vote in such nominations or elections.

§ 4101.108 Outside employment and business activity.

(a) *Prohibition.* No covered employee shall perform services, either on a paid or unpaid basis, for any System institution or related entity, or any officer, director, employee, or person connected with a System institution or related entity. Nothing in this section would prohibit covered employees from providing any service that is a part of their official duties.

(b) *General requirement for prior approval.* All employees shall obtain prior written approval before engaging in any outside employment or business activity, with or without compensation, unless the outside activity is exempt from the definition of "employment" as set forth in paragraph (c) of this section.

An employee proposing to engage in outside employment and business activities is required, prior to commencement, to send a written notice of the proposed employment or activity to the DAEO on a form prescribed by the DAEO. Approval shall be granted only upon a determination that the employment or activity is not expected to involve conduct prohibited by statute, part 2635 of this title, or paragraph (a) of this section.

(c) *Definition.* For purposes of this section, "employment" means any form of non-Federal employment, business relationship or activity involving the provision of personal services by the employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization for which no compensation is received other than reimbursement for necessary expenses.

§ 4101.109 Waivers.

The DAEO may grant a written waiver from any provision of this part based on a determination that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law and that, under the particular circumstances, application of the provision is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Agency programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

12 CFR CHAPTER VI—FARM CREDIT ADMINISTRATION

2. Part 601 is revised to read as follows:

PART 601—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Authority: 5 U.S.C. 7301; 12 U.S.C. 2243, 2252.

§ 601.100 Cross-references to employee ethical conduct standards and financial disclosure regulations.

Board members, officers, and other employees of the Farm Credit Administration are subject to the

Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the Farm Credit Administration regulation at 5 CFR part 4101, which supplements the Executive Branch-wide Standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

[FR Doc. 95-14216 Filed 6-9-95; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[FV95-985-2FIR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1994-95 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule increasing the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1994-95 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

EFFECTIVE DATE: June 1, 1994, through May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-8139; or Fax: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the

handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This final rule finalizes an interim final rule that increased the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1994-95 marketing year, which ends on May 31, 1995. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own

behalf. Thus, both statutes have small entity orientation and compatibility.

There are 8 spearmint oil handlers subject to regulation under the order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold Class 1 (Scotch) spearmint oil allotment base, and approximately 145 producers hold Class 3 (Native) spearmint oil allotment base. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A minority of handlers and producers of Far West spearmint oil may be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations are not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the order). Spearmint oil is also produced in the Midwest. The production area covered by the order accounts for approximately 75 percent of the annual U.S. production of spearmint oil.

This final rule finalizes an interim final rule increasing the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1994-95 marketing year, which ends on May 31, 1995. This rule increases the salable quantity from 1,287,680 pounds to 1,358,404 pounds and the allotment percentage from 66 percent to 70 percent for Native spearmint oil for the 1994-95 marketing year.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The initial salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1994-95 marketing year were recommended by the Committee at its October 6, 1993, meeting. The Committee recommended