

# Proposed Rules

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 05–059–1]

#### Importation of Baby Corn and Baby Carrots From Zambia

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruits and vegetables regulations to allow the importation into the continental United States of fresh, dehusked immature (baby) sweet corn and fresh baby carrots from Zambia. As a condition of entry, both commodities would be subject to inspection at the port of first arrival and would have to be accompanied by a phytosanitary certificate with an additional declaration stating that the commodity has been inspected and found free of the quarantine pest listed on the certificate. This action would allow for the importation of Zambian baby corn and baby carrots into the United States while continuing to provide protection against the introduction of quarantine pests.

**DATES:** We will consider all comments that we receive on or before March 13, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the “Search for Open Regulations” box, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click on “Submit.” In the Docket ID column, select APHIS–2005–0111 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the “Advanced Search” function in Regulations.gov.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–059–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–059–1.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sharon Porsche, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organization (NPPO) of Zambia has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow baby corn and baby carrots from Zambia to be imported into the United States. As part of our evaluation of Zambia’s request, we prepared a pest risk assessment (PRA) and a risk management document for each commodity. Copies of the PRAs and risk management documents may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see

**ADDRESSES** above for instruction for accessing Regulations.gov).

The PRA titled “Importation of Fresh, Dehusked, Immature, Baby Corn, *Zea mays* L., from Zambia into the Continental United States” (June 2005) evaluates the risks associated with the importation of baby corn into the continental United States (the lower 48 States and Alaska) from Zambia. The term “baby corn” refers to dehusked, immature, sweet corn for consumption measuring 10 to 25 millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length. The PRA and supporting documents identified one pest of quarantine significance present in Zambia, the fungus *Phomopsis jaczewskii* Panasenko, that could be introduced into the United States via baby corn. Although information on *P. jaczewskii* is limited, it is considered likely to follow the pathway because it infects corn kernels. Some species of *Phomopsis*, though not necessarily *P. jaczewskii*, may produce latent infections that could escape detection during post-harvest processing.

Post-harvest processing for commercial baby corn typically involves dehusking and removal of the silks. Pickers and packers in Zambia are directed to reject any corn showing mechanical damage, shriveling and softness, disease, rot or decay, pest damage, or tissue breakdown. At the packing facility, cobs are blast chilled for 1 hour, or long enough to bring the temperature down to 2 °C (35.6 °F), then are stored at 4 to 6 °C (39.2 to 42.8 °F) for a maximum of 2 days before packaging. The baby corn would be exported to the continental United States in shrink-wrapped, microwavable trays or boil-ready plastic bags.

Because fungi in the genus *Phomopsis* can remain dormant for a period until required environmental conditions are met before producing spore-bearing structures, APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the plant pest risk of this fungus. The proposed phytosanitary measures include a requirement for each shipment of corn to be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the corn has been inspected and found free of *Phomopsis jaczewskii* based on field

and packinghouse inspections. The proposed requirement for an additional declaration would provide phytosanitary security by requiring the NPPO of Zambia or its designee to conduct phytosanitary inspections for this pest both in the field during the growing season and at the packinghouse prior to export to ensure that the corn is free from *P. jaczewskii*. This would increase the inspections the corn receives by requiring phytosanitary inspections in addition to the normal packinghouse quality inspection.

Furthermore, specifically listing the pest on the additional declaration would alert U.S. inspectors to the specific pest of concern. Additionally, the commodity imports would be restricted solely to commercial shipments within the continental United States.

We have determined these proposed measures would provide an appropriate level of phytosanitary protection for the importation of baby corn from Zambia. *Phomopsis* seed rots generally affect crops left in the field after maturity prior to harvesting. Corn picked prior to maturity, in contrast, is less exposed to inoculum, and less likely to become infected or harbor asymptomatic infections. Additionally, the NPPO of Zambia would routinely conduct field inspections and the corn would be dehusked and inspected as part of the packing process. These measures, including the requirement for a phytosanitary certificate, would provide an appropriate level of phytosanitary protection for the importation of baby corn from Zambia.

The regulations in “Subpart—Indian Corn or Maize, Broomcorn, and Related Plants” (§§ 319.41 through 319.41–6) prohibit or restrict the importation of Indian corn or maize, broomcorn, and related plants in order to prevent the introduction of plant pests into the United States. The regulations in § 319.41–1 list articles of Indian corn or maize, broomcorn, and related plants that are eligible for importation into the United States and the conditions under which they may be imported. To reflect our proposed addition of baby corn from Zambia to the fruits and vegetables regulations, we are proposing to amend § 319.41–1 by adding a new paragraph (d) that would list immature, dehusked (baby) sweet corn imported from Zambia in accordance with a new § 319.56–2f among the articles eligible for importation.

The PRA titled “Importation of Baby Carrot, *Daucus carota* L. ssp. *sativus*, from Zambia into the Continental United States” (June 2005), evaluates the risks associated with the

importation of baby carrots into the continental United States from Zambia. The term “baby carrot” refers to immature carrots for consumption measuring 10 to 18 millimeters (0.39 to 0.71 inches) in diameter and 50 to 105 millimeters (1.97 to 4.13 inches) in length. The PRA and supporting documents identified one pest of quarantine significance that could be introduced in the United States via baby carrots from Zambia, the nematode *Meloidogyne ethiopica* Whitehead. It is possible, however, that *M. ethiopica* does not occur in Zambia. The assumption that *M. ethiopica* occurs with carrots in Zambia was based on the fact that Zambia borders Zimbabwe, where the nematode was once collected, and that the nematode has been associated with carrots in South Africa. The Zambian NPPO recently provided a statement that field surveys and literature reviews did not indicate any record of the pest having been detected in Zambia.

Post-harvest processing for commercial carrots typically involves trimming to remove tops and washing and brushing to remove soil as well as adventitious roots. Pickers and packers in Zambia are directed to reject any carrots showing any mechanical damage, pest damage, malformed roots, disease, or soil contamination. *Meloidogyne* species typically cause roots to be malformed with numerous galls or knots, which would cause the carrots to be culled during post-harvest processing. At the packing facility, the carrots are blast chilled for 1 hour, or long enough to bring the temperature down to 4 °C (39.2 °F), then stored at 5 to 7 °C (41 to 44.6 °F) for a maximum of 4 days before packaging. The baby carrots would be exported to the continental United States in shrink-wrapped, microwavable trays or boil-ready plastic bags.

Because the climate of the United States is generally favorable to the establishment of *M. ethiopica*, and because *M. ethiopica* feeds on a wide variety of host plants, APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the plant pest risk of this nematode. The proposed phytosanitary measures include a requirement for each shipment of carrots to be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the carrots have been inspected and found free of *Meloidogyne ethiopica* based on field and packinghouse inspections. The NPPO of Zambia or its designee would conduct field inspections during the

growing season and at the packinghouse to ensure that the carrots are free from *M. ethiopica*. Additionally, the carrots would have to be free from leaves and soil. The commodity imports would be restricted solely to commercial shipments within the continental United States.

We have determined these proposed measures would provide an appropriate level of phytosanitary protection for the importation of baby carrots from Zambia, given that the nematode may not be present in Zambia and because root knot nematodes tend to produce recognizable symptoms which would cause the carrots to be culled during post-harvest procedures. The proposed requirement for a phytosanitary certificate with an additional declaration would provide phytosanitary security by requiring the NPPO of Zambia or its designee to conduct phytosanitary inspections for this pest. This doubles the number of inspections the carrots would receive by requiring a phytosanitary inspection at the production site in addition to the normal packinghouse quality inspection. Furthermore, specifically listing the pest on the additional declaration would alert U.S. inspectors to the specific pest of concern.

To reflect our proposed addition to the fruits and vegetables regulations of baby carrots from Zambia, we are proposing to add a new § 319.56–2f governing the conditions of entry of baby corn and baby carrots from Zambia into the continental United States.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States. In response to a request from the Government of Zambia, and after conducting pest risk assessments, APHIS is proposing to allow the importation from Zambia of commercial shipments of fresh, dehusked immature (baby) sweet corn for consumption and fresh baby carrots for consumption. Both commodities would be allowed to be imported only into the continental United States.

### Effects on Small Entities

The Regulatory Flexibility Act requires agencies to consider the economic impact of their regulations on small entities and to use flexibility to provide regulatory relief when regulations create economic disparities between differently sized entities. In accordance with the Act, APHIS has performed an initial regulatory flexibility analysis regarding the economic effects of this proposed rule on small entities. We do not have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities that may incur benefits or costs from the implementation of this proposed rule, as data on the number and size of U.S. producers of the commodities proposed for importation into the United States in this document are not available. However, based on the information we do have, we believe that most if not all of the businesses affected by the proposed rule would be small, and there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities.

U.S. entities that could be affected by the proposed rule are domestic producers of baby corn and baby carrots, and wholesalers that would import the two commodities. Restaurants or other retailers that would subsequently purchase the items could be indirectly affected. Businesses producing baby corn or baby carrots are classified in the North American Industry Classification System (NAICS) within the category of Other Vegetable (except Potato) and Melon Farming (NAICS code 111219). The Small Business Administration's (SBA) small-entity definition for these producers is annual receipts of not more than \$750,000. Firms that would import the baby corn and baby carrots from Zambia are defined as small entities if they have 100 or fewer employees (NAICS code 424480, Fresh Fruit and Vegetable Merchant Wholesalers). The wholesale sector comprises two types of wholesalers, those that sell goods on their own account and those that arrange sales and purchases for others for a commission or fee. Importers are included in both cases.

As stated above, we believe that most if not all of the businesses affected by the proposed rule would be small since, in general, firms engaged in production and importation of agricultural commodities are predominantly small.

APHIS has not been able to obtain production or trade data that is specific to baby carrots, and only limited information on baby corn. Statistical

information on baby corn production is limited because producing countries either include it within the sweet corn category, as is done in the United States, or do not report production of this commodity at all. Quantities of baby corn produced, imported, and consumed in the United States are not known. According to industry sources, it is grown in California, and the largest foreign supplier is Costa Rica. Other sources are Mexico, Guatemala, and Honduras. Mexico provided 92 percent of U.S. fresh sweet corn imports during 1998–2000, with the majority arriving during the winter (December to April). Fresh baby corn is included in these imports; however its amount is unknown. We welcome information that the public may offer that would allow for a better estimate of the number of small entities expected to be affected by the proposed rule.

The Food and Agriculture Organization of the United Nations' statistics indicate that Zambia produced an average of 750,000 metric tons of corn per year between 1997 and 2002 and exported 1 percent of its corn production. How much of Zambia's corn production and exports is baby corn is not known. It is noted that production of baby corn and baby carrots depends on hand labor due to the unsuitability of mechanical agricultural harvesting techniques. Zambia's plentiful farm labor resources provide it with an economic advantage in the production of these crops.

The Government of Zambia has indicated its intention to export approximately 400 metric tons (16 40-foot shipping containers) of baby corn and 400 metric tons of baby carrots to the continental United States annually. There are two large commercial agricultural companies in Zambia (York Farm and Chalimbana Fresh Produce Ltd., formerly known as Agriflora Limited) that are responsible for producing the bulk of specialty crops (crops that require more intensive labor to qualify for exportation). The two companies use either contract growers or their own farms, which are distributed between Zambia's three geographical zones to ensure year round supply of fresh produce. In 2002, Agriflora exported 100 metric tons of baby corn to the United Kingdom. According to the technical advisor of the Organic Producer and Processor Association of Zambia, of a total of 2,500 hectares of agricultural land devoted to specialty crop production that was inspected in 2004, 743 hectares have been certified for exports.

Without additional information on the number of U.S. producers of baby corn

and baby carrots, the quantities they produce, and the quantities already being imported into the United States, we cannot assess the potential impact of the proposed rule on U.S. small entities. An increase in supply can be expected to exert downward pressure on prices. We welcome comments that will allow us to better determine the possible magnitude of these price effects.

### Alternatives

An alternative to the proposed rule would be to require that a different set of phytosanitary measures be satisfied. Risk assessment and risk management documents prepared by APHIS identify one quarantine pest each for baby corn (*Phomopsis jaczewskii*, a fungus) and baby carrots (*Meloidogyne ethiopica*, a nematode) proposed to be imported from Zambia. Both commodities would be subject to inspection at the port of first arrival and would be required to be accompanied by a phytosanitary certificate. The phytosanitary certificate for baby corn would be required to include an additional declaration stating that the corn has been inspected prior to export and found free of *P. jaczewskii*, based on field and packinghouse inspections conducted by the NPPO of Zambia. The phytosanitary certificate for baby carrots would be required to state that the carrots have been inspected prior to export and found free of *M. ethiopica* based on field and packinghouse inspections conducted by the NPPO of Zambia. Both commodities could be imported in commercial shipments only. In addition, the baby carrots would have to be free from leaves and soil. These conditions are expected to successfully mitigate any risks posed to U.S. agriculture. Import requirements less or more stringent than those proposed would either not provide an appropriate level of phytosanitary protection or impose unduly burdensome measures.

We would appreciate any comments on the potential economic effects of allowing the importation into the United States of baby corn and baby carrots from Zambia, and on how the proposed rule could be modified to reduce expected costs or burdens for small entities consistent with its objectives.

This proposed rule contains certain reporting and recordkeeping requirements (see "Paperwork Reduction Act" below).

### Executive Order 12988

This proposed rule would allow baby corn and baby carrots to be imported into the United States from Zambia. If this proposed rule is adopted, State and

local laws and regulations regarding baby corn and baby carrots imported under this rule would be preempted while the vegetable is in foreign commerce. Fresh vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

### National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with allowing the importation of baby corn and baby carrots from Zambia into the United States, we have prepared an environmental assessment. 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 may be viewed on the Internet on the Regulations.gov Web site and is available for public inspection in our reading room. (Instructions for accessing Regulations.gov and 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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 05–059–1. Please send a copy of your comments to: (1) Docket No. 05–059–1, Regulatory

Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the fruits and vegetables regulations to allow the importation into the continental United States of immature (baby) sweet corn and fresh baby carrots from Zambia. As a condition of entry, both commodities would be subject to inspection at the port of first arrival.

In addition, the proposed rule would require each shipment of baby corn to be accompanied by a phytosanitary certificate issued by the NPPO of Zambia stating that the shipment has been inspected and found free of *Phomopsis jaczewskii*. Each shipment of baby carrots would have to be accompanied by a phytosanitary certificate issued by the NPPO of Zambia stating that the shipment has been inspected and found free of *Meloidogyne ethiopica*. The baby carrots would also have to be free from leaves and soil.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

- (1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.4156 hours per response.

*Respondents:* Importers, producers, NPPOs.

*Estimated annual number of respondents:* 7.

*Estimated annual number of responses per respondent:* 22.

*Estimated annual number of responses:* 154.

*Estimated total annual burden on respondents:* 64 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

### List of Subjects in 7 CFR Part 319

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

Accordingly, we propose to amend 7 CFR part 319 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, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 319.41–1, a new paragraph (d) would be added to read as follows:

#### § 319.41–1 Plant products permitted entry.<sup>1</sup>

\* \* \* \* \*

(d) Immature, dehusked “baby” sweet corn may be imported from Zambia in accordance with § 319.56–2f(a).

3. A new § 319.56–2f would be added to read as follows:

#### § 319.56–2f Conditions governing the entry of baby corn and baby carrots from Zambia.

(a) Immature, dehusked “baby” sweet corn (*Zea mays* L.) measuring 10 to 25

<sup>1</sup> Except as provided in § 319.41–6 the regulations in this subpart do not authorize importations through the mails.

millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the corn has been grown must have been inspected at least once during the growing season and before harvest for the following pest:

*Phomopsis jaczewskii*.

(2) After harvest, the corn must be inspected by Zambia's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a)(1) of this section before the corn may be shipped to the continental United States.

(3) The corn must be inspected at the port of first arrival as provided in § 319.56–6.

(4) Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the corn has been inspected and found free of *Phomopsis jaczewskii* based on field and packinghouse inspections.

(5) The corn may be imported in commercial shipments only.

(b) Immature "baby" carrots (*Daucus carota* L. ssp. *sativus*) for consumption measuring 10 to 18 millimeters (0.39 to 0.71 inches) in diameter and 50 to 105 millimeters (1.97 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the carrots have been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Meloidogyne ethiopica*.

(2) After harvest, the carrots must be inspected by the NPPO of Zambia and found free of the pests listed in paragraph (b)(1) of this section before the carrots may be shipped to the continental United States.

(3) The carrots must be inspected at the port of first arrival as provided in § 319.56–6.

(4) Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the carrots have been inspected and found free of *Meloidogyne ethiopica* based on field and packinghouse inspections.

(5) The carrots must be free from leaves and soil.

(6) The carrots may be imported in commercial shipments only.

Done in Washington, DC, this 4th day of January 2006.

**W. Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E6–134 Filed 1–10–06; 8:45 am]

**BILLING CODE 3410–34–P**

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 611

**RIN 3052–AC29**

#### Organization; Termination of System Institution Status

**AGENCY:** Farm Credit Administration.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend our regulations that allow a Farm Credit System (FCS, Farm Credit, or System) bank or association to terminate its FCS charter and become a financial institution under another Federal or State chartering authority. With these amendments, we propose to update the existing regulations to clarify our requirements, separate our review of stockholder disclosure information from our review of the termination itself, improve communications, strengthen the role of an institution's directors in the termination process, and make other changes.

**DATES:** Please send your comments to us by March 13, 2006.

**ADDRESSES:** Comments may be sent by electronic mail to "reg-comm@fca.gov," through the Pending Regulations section of our Web site at <http://www.fca.gov> or through the Government-wide <http://www.regulations.gov> portal. You may also send written comments to Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by fax to (703) 734–5784.

You may review copies of all comments we receive at our office in McLean, Virginia or from our Web site at <http://www.fca.gov>. Once you are in the Web site, select "Legal Info," and then select "Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove electronic-mail addresses to help reduce Internet spam.

#### FOR FURTHER INFORMATION CONTACT:

Dale Aultman, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA

22102–5090, (703) 883–4414; TTY (703) 883–4434; or Rebecca S. Orlich, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

#### SUPPLEMENTARY INFORMATION:

##### I. Objectives

The objectives of our current proposal are to:

1. Update the termination procedure for FCS banks and associations under sections 7.10 and 7.11 of the Farm Credit Act of 1971, as amended (Act);

2. Ensure that the FCA, an institution's board of directors, and the institution's equity holders have sufficient time and opportunities to be fully informed about a termination proposal before deciding whether to approve the termination;

3. Provide that we may require a terminating institution to obtain independent analyses and rulings regarding a proposed termination;

4. Ensure that a significant proportion of stockholders are engaged in the termination process; and

5. Clarify existing requirements and ensure that stockholder disclosure materials are informative and easy to understand.

##### II. Background

The Agricultural Credit Act of 1987, among other things, amended the Act expressly to permit System institutions to terminate their Farm Credit status and become another type of financial institution. We first issued regulations governing terminations in 1991. At that time, the regulations covered only "small" FCS associations. Our current termination rule, published on April 12, 2002, reflected amendments to cover all associations and banks.<sup>1</sup> Since 1991, no FCS bank or association has terminated its charter under FCA regulations. However, in 2004 one System association adopted a commencement resolution to terminate its Farm Credit charter and subsequently be acquired by the subsidiary of a non-System bank. Ultimately, the association decided not to be acquired and not to terminate Farm Credit status. Although the association never submitted a termination application to us, the experience presented us with an actual event to evaluate the effectiveness and efficiency of our existing termination regulations. We found that, while the existing regulations provide the basic requirements to comply with the Act and effect a termination, certain

<sup>1</sup> See 67 FR 17907.