could spread END from the quarantined area. On January 17, 2003, the Secretary of Agriculture signed a declaration of extraordinary emergency because of END in Nevada (see 68 FR 3507, Docket No. 03–001–2, published January 24, 2003).

On February 4, 2003, END was confirmed in backyard poultry on a premises in the Colorado River Indian Nation in Arizona. Therefore, in a fourth interim rule effective February 10, 2003, and published in the **Federal Register** on February 14, 2003 (68 FR 7412–7413, Docket No. 02–117–4), we amended § 82.3(c) by quarantining La Paz and Yuma Counties, AZ, and a portion of Mohave County, AZ, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. On February 7, 2003, the Secretary of Agriculture signed a declaration of extraordinary emergency because of END in Arizona (see 68 FR 7338, Docket No. 03–001–3, published February 13, 2003).

On April 9, 2003, END was confirmed in backyard poultry on a premises in El Paso County, TX. Therefore, in this interim rule, we are amending § 82.3(c) by designating El Paso and Hudspeth Counties, TX, and Dona Ana, Luna, and Otero Counties, NM, as a quarantined area and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. As provided for by the regulations in § 82.3(a), this quarantined area encompasses the area where poultry infected with END were located and a surrounding geographical area deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of END. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the regulations by quarantining El Paso and Hudspeth Counties, TX, and Dona Ana, Luna, and Otero Counties, NM, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. This action is necessary on an emergency basis to prevent the spread of END from the quarantined area.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, 9 CFR part 82 is amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 82.3, paragraph (c) is amended by adding, in alphabetical order, entries for New Mexico and Texas to read as follows:

§ 82.3 Quarantined areas.

* * * * *

(c) * * *

* * * * *

New Mexico

Dona Ana County. The entire county.
Luna County. The entire county.
Otero County. The entire county.

Texas

El Paso County. The entire county.
Hudspeth County. The entire county.

Done in Washington, DC, this 10th day of April 2003.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–9322 Filed 4–15–03; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC05

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Capital Adequacy

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA or agency) amends its capital adequacy regulations to add a definition of total liabilities for the net collateral ratio calculation, limit the amount of term preferred stock that may count as total surplus, clarify the circumstances in which we may waive disclosure requirements for an issuance of equities by a Farm Credit System (FCS, Farm Credit or System) institution, and make several nonsubstantive technical changes. These amendments update, modify, and clarify certain capital requirements.

EFFECTIVE DATE: This regulation will become effective 30 days after publication in the **Federal Register** during which either or both houses of

Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:
Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4479; TTY (703) 883–4434;
or
Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our rule are to:

- Limit the effect of Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (SFAS 133), on the net collateral ratio;
- Ensure that Farm Credit institutions do not overly rely on term preferred stock to meet regulatory capital requirements;
- Explain how the FCA may include other debt or equity in the definition of permanent capital;
- Clarify the requirements for the FCA to consider waiving disclosure requirements for issuances of stock to more than a single sophisticated investor; and
- Make several nonsubstantive technical changes to our capital regulations.

II. Introduction

The FCA proposed amendments to the capital adequacy regulations on October 22, 2002. (*See* 67 FR 64833.) We now adopt the final amendments without changes from the proposed rule. The amendments will update, modify, and clarify certain capital requirements, as follows:

- Revisions to the net collateral ratio calculation will limit the effect of new accounting requirements for derivatives. This revision is in response to a petition we received in May 2001, from two System banks.
- There will be a limit on the amount of term preferred stock that can be counted in total surplus.
- Term preferred stock will be excluded from liabilities in the calculation of the net collateral ratio for System banks to the extent that the stock is counted as total surplus.
- We also clarify certain requirements and make additional technical corrections.

The amendments are more fully described in the section-by-section analysis below.

III. Comments

We received one comment letter on the proposed rule. The comment was submitted on behalf of two Farm Credit banks. The banks commended the agency for developing the proposed rule, stated their agreement with the objectives set out in the proposed rule, and expressed support for the rule ''in its entirety.''

IV. Section-by-Section Analysis

Section 615.5201(e)—Definition of Direct Lender Institution

We amend § 615.5201(e) by removing the phrase ''loan of lease'' and adding, in its place, the phrase ''loan or lease'' to correct a typographical error.

Section 615.5201(l)—Definition of Permanent Capital

We add a new paragraph (8) to the definition of permanent capital in § 615.5201(l). This amendment reflects a statutory change to section 4.3A of the Farm Credit Act of 1971, as amended, by the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act). The 1992 Act added section 4.3A(a)(1)(E), which includes in permanent capital any debt or equity instrument or other account that the FCA determines appropriate to be considered as permanent capital. The amendment states that we may include a debt or equity instrument or other account in permanent capital in whole or in part, and on a permanent or temporary basis. The language of this amendment is similar to language in existing § 615.5301(b)(1)(iv) and (i)(5), which states that we may include additional items in core or total surplus when we deem their inclusion to be appropriate. The inclusion of additional items gives institutions more flexibility in meeting their capital requirements.

Section 615.5250(c)(5)—Waiver of Disclosure Requirements

We amend § 615.5250(c)(5) to clarify the circumstances in which we may waive any or all of the disclosures we require institutions to make to potential investors in stock issuances. The existing waiver language was interpreted by some institutions to apply only when a single investor acquires all the equities of an entire class issued by an institution. Our revision clarifies that we may waive disclosure requirements when the following conditions are met: (1) Equities are sold only to sophisticated investors; (2) equities are sold in blocks of $100,000 or more; and (3) purchasers of equities agree that any subsequent sale or transfer must be in blocks of $100,000 or more. Any subsequent sale or transfer of equities that is less than $100,000 must receive our prior written approval.

We also correct the reference to paragraph (b) in existing paragraph (c)(5). The reference should have been to the disclosure requirements in paragraph (c)(1).

Section 615.5301(i)—Definition of Total Surplus

We add a new paragraph (4) to the definition of total surplus in § 615.5301(i) to limit the amount of term preferred stock that may be included in total surplus to 25 percent of permanent capital. Conforming changes are made to paragraph (3).

Our existing regulations have included term preferred stock in total surplus without limit. The final rule contains a limitation equal to 25 percent of permanent capital, to ensure that System institutions do not overly rely on this type of capital to meet regulatory capital requirements. This limitation is generally comparable to the treatment of intermediate-term preferred stock in the regulatory capital requirements for commercial banks. Commercial banks' Federal financial regulators exclude term preferred stock from Tier 1 capital and limit the amount of intermediate-term preferred stock that can count as Tier 2 capital to an amount equal to 50 percent of Tier 1 capital.[1] In addition, the amount a commercial bank may count as Tier 2 capital can be no greater than its Tier 1 capital. This means, in effect, that no more than 25 percent of a commercial bank's minimum total regulatory (Tier 1 + Tier 2) capital may consist of intermediate-term preferred stock.[2] We believe a similar limit to that imposed on commercial banks is also appropriate for System institutions and, therefore, impose a limitation on the total surplus ratio.

We note that the limitation will not prohibit System institutions from issuing preferred stock in excess of what may be counted as total surplus, but such excess amounts will not qualify as total surplus. The preferred stock will, however, be treated as permanent capital to the extent permitted in the permanent capital calculation.

[1] *See* 12 CFR Part 325, App. A (I.A.2(d)) (Federal Deposit Insurance Corporation); 12 CFR part 3, App. A (2(b)(4)) (Comptroller of the Currency); and 12 CFR part 208, App. A (II.A.2(iv)) (Board of Governors of the Federal Reserve System).

[2] This example assumes that a commercial bank has Tier 2 capital equal in amount to its Tier 1 capital.

New Section 615.5301(j)—Definition of Total Liabilities

We add a new § 615.5301(j) to define ''total liabilities'' for the purpose of calculating the net collateral ratio. This new definition limits the effect of the new accounting requirements for derivatives in SFAS 133, as promulgated by the Financial Accounting Standards Board. The net collateral ratio is a bank's net collateral, as defined in § 615.5301(c), divided by the bank's total liabilities. Section 615.5301(j)(1) specifies that total liabilities are valued in accordance with generally accepted accounting principles (GAAP), with the following exclusions for the effects of SFAS 133: (1) Adjustments to the carrying amount [3] of any liability that is designated as being hedged; and (2) any derivative recognized as a liability that is designated as a hedging instrument.

Prior to SFAS 133, GAAP allowed many derivative instruments to be treated by System banks as off-balance sheet items. However, with the adoption of SFAS 133, System banks must now recognize all derivative instruments at their fair value as either an asset or a liability on the balance sheet. If a derivative instrument qualifies as a designated hedge,[4] System banks may be required to adjust the carrying value of certain assets or liabilities.

As a result of SFAS 133, System banks that use derivatives may have to recognize an increase in the amount of total liabilities when calculating their net collateral ratios. These increases in total liabilities have resulted in lower net collateral ratios than what the banks would have had under the previous accounting requirements for derivative instruments.

Under SFAS 133, a System bank's total liabilities will often increase for a derivative instrument designated as hedged. This resulting increase in the bank's liabilities from a derivative instrument designated as a hedge has no offsetting equivalent increase in the collateral amount used in the computation of its net collateral ratio because of the way net collateral is defined in § 615.5301(c). Thus, a derivative instrument used by a bank to hedge against interest rate risk can often result in an unintended decline in the bank's net collateral ratio.

We believe a bank's net collateral ratio should not be negatively affected by derivative instruments appropriately used to hedge against interest rate risk or other types of market risks. Appropriate use of derivatives as hedges protects System banks against a true economic decline in their net collateral. Accordingly, our amendment excludes the effect of SFAS 133 on the calculation of the net collateral ratio for derivative instruments that qualify as hedges under SFAS 133.

Conversely, we believe derivative instruments that are not designated to hedge specific assets or liabilities do not provide adequate protections for interest rate or other market risks. Therefore, our definition of total liabilities *includes* derivative instruments that do not qualify as designated hedges.

Section 615.5301(j)(2) also excludes from total liabilities the amount of term preferred stock that is eligible to be counted as total surplus in the numerator of a bank's calculation of its total surplus ratio. In the absence of such exclusion, the existing rule could have required certain forms of term preferred stock to be considered liabilities. The exclusion eliminates the potential inconsistency of treating a particular balance sheet item as a liability for net collateral purposes but as capital for the total surplus ratio.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

■ For the reasons stated in the preamble, we amend part 615 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

■ 1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart H—Capital Adequacy

■ 2. Amend § 615.5201 as follows:

■ a. Remove the words ''loan of lease'' in paragraph (e) and add in their place, the words ''loan or lease''; and

■ b. Add a new paragraph (l)(8).

§ 615.5201 Definitions.

(1) * * *

(8) Any other debt or equity instruments or other accounts the FCA has determined are appropriate to be considered permanent capital. The FCA may permit one or more institutions to include all or a portion of such instrument, entry, or account as permanent capital, permanently or on a temporary basis, for purposes of this part.

* * * * *

Subpart I—Issuance of Equities

■ 3. Amend § 615.5250 by revising paragraph (c)(5) to read as follows:

§ 615.5250 Disclosure requirements.

(c) * * *

(5) For a class of stock, the FCA may waive any or all of the disclosure requirements of paragraph (c)(1) of this section when each investor acquires at least $100,000 of the stock if the sophistication of the purchaser warrants, provided that subsequent transfers of the stock in amounts of less than $100,000 must receive the prior written approval of the FCA.

* * * * *

Subpart K—Surplus and Collateral Requirements

■ 4. Amend § 615.5301 as follows:

■ a. Redesignate paragraphs (i)(4) through (i)(7) as paragraphs (i)(5) through (i)(8);

■ b. Remove the reference ''§ 615.5201(j)(4)(iv)'' in paragraph (i)(2)

[3] GAAP defines the carrying amount of a liability as the face amount of a liability increased or decreased by any applicable accrued interest payable and any applicable unamortized premium, discount, finance charges, or issue costs.

[4] Under SFAS 133, derivative instruments designated as hedges routinely reduce an entity's exposure to changes in the fair value of an asset or liability (*i.e.*, fair value hedge) or changes in expected future cash flows (*i.e.*, cash flow hedge) attributable to a particular risk. For Farm Credit banks, derivative instruments are routinely used to reduce their exposure to (hedge against) changes in interest rates or other types of market risks.

and add in its place, the reference ''§ 615.5201(l)(4)(iv)'';

■ c. Revise paragraph (i)(3);

■ d. Add a new paragraph (i)(4); and

■ e. Add a new paragraph (j).

§ 615.5301 Definitions.

(i) * * *

(3) Common and perpetual preferred stock (other than allocated stock) that is not purchased or held as a condition of obtaining a loan, provided that the institution has no established plan or practice of retiring such stock;

(4) Term preferred stock that is not purchased or held as a condition of obtaining a loan, up to a maximum of 25 percent of the institution's permanent capital (as calculated after deductions required in the permanent capital ratio computation). The amount of includible term stock must be reduced by 20 percent (net of redemptions) at the beginning of each of the last 5 years of the term of the instrument;

* * * * *

(j) *Total liabilities* means liabilities valued in accordance with generally accepted accounting principles (GAAP), except that total liabilities shall exclude the following:

(1) As set forth in Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as promulgated by the Financial Accounting Standards Board—

(i) Adjustments to the carrying amount of any liability designated as being hedged; and

(ii) Any derivative recognized as a liability that is designated as a hedging instrument.

(2) Term preferred stock to the extent such stock is included as total surplus in the computation of the bank's total surplus ratio pursuant to § 615.5301(i).

Dated: April 10, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–9320 Filed 4–15–03; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–54–AD; Amendment 39–13111; AD 2003–07–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate ST01783AT–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767–300 series airplanes modified by Supplemental Type Certificate ST01783AT–D, that requires modifying the in-flight entertainment (IFE) system and revising the airplane flight manual. The actions specified by this AD are intended to ensure that the flight crew is able to remove electrical power from the IFE system when necessary and is advised of appropriate procedures for such action. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective May 21, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 21, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from TIMCO Engineered Systems, Inc., 623 Radar Road, Greensboro, North Carolina 27410. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Chupka, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6070; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767–300 series airplanes modified by Supplemental Type Certificate ST01783AT–D was published in the **Federal Register** on January 3, 2003 (68 FR 308). That action proposed to require modifying the in-flight entertainment (IFE) system and revising the airplane flight manual.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 37 airplanes of the affected design in the worldwide fleet. The FAA estimates that 37 airplanes of U.S. registry will be affected by this AD.

It will take approximately 66 work hours per airplane to accomplish the modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the modification on U.S. operators is estimated to be $146,520, or $3,960 per airplane.

It will take approximately 1 work hour per airplane to accomplish the AFM revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision on U.S. operators is estimated to be $2,220, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and