Proposed Rules

Federal Register

Vol. 75, No. 159

Wednesday, August 18, 2010

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.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AC60

Loan Policies and Operations; Lending and Leasing Limits and Risk Management

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, we, our), by the Farm Credit Administration Board, is publishing for comment proposed amendments to our regulations relating to lending and leasing limits. We propose lowering the current limit on extensions of credit to a single borrower for each Farm Credit System (System) institution operating under title I or II of the Farm Credit Act of 1971, as amended (Act). The proposed rule would not affect the lending and leasing limits of title III lenders under § 614.4355. However, we are proposing that all titles I, II and III System institutions adopt written policies to effectively identify, limit, measure and monitor their exposures to loan and lease concentration risks. This proposed rule, if adopted, would increase the safe and sound operation of System institutions by strengthening their risk management practices and abilities to withstand volatile and negative changes in increasingly complex and integrated agricultural markets.

DATES: You may send comments on or before October 18, 2010.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *E-mail:* Send us an e-mail at *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

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 "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted 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 e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: Paul K. Gibbs, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or Wendy R. Laguarda, Assistant General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this proposed rule are to:

- Strengthen the safety and soundness of System institutions;
- Ensure the establishment of consistent, uniform and prudent concentration risk management policies by System institutions;
- Ensure that all System lenders have robust methods to identify, measure, limit and monitor exposures to loan and lease concentration risks, including counterparty risks; and
- Strengthen the ability of System lenders to withstand volatile and negative changes in increasingly complex and integrated agricultural markets.

The proposed regulation would not change the following provisions of the current lending limits rule: Definitions under § 614.4350; computation of lending and leasing limit base under § 614.4351; lending and leasing limits for Banks for Cooperatives (BCs) under § 614.4355; BCs look-through notes under § 614.4357; the base calculation for computing the lending and leasing limit under § 614.4358; the attribution rules under § 614.4359; lending and leasing limit violations under § 614.4360; or the transition period prescribed in § 614.4361.[1]

We have elected not to address the lending limits for title III lenders at this time because of the complexity of the issues involved in lending to cooperatives under title III of the Act. Should the Agency decide to address the BCs lending limits at some future time, we will do so in a separate rulemaking.

All System institutions, including title III institutions, would be given 6 months from the effective date of new § 614.4362 to establish and implement written policies on limiting exposures to on- and off-balance sheet loan and lease concentration risks as prescribed therein.

II. Background

The Act[2] does not contain general lending and leasing limits for titles I and II System institutions outside of specific limits for processing and marketing and rural housing loans. However, both the Agency and the System recognize that lending limits are a sound banking practice and an effective risk management tool that enhance the safety and soundness of individual System institutions and the System as a whole. The Agency's current lending limit regulations,[3] promulgated in 1993 with an effective date in 1994, were issued due to the System's structural changes resulting from the Agricultural Credit Act of 1987 (1987 Act).[4] This regulation created a uniform lending limit for all System banks and associations, with the exception of BCs,

[1] The proposed changes will not change existing regulations covering underwriting standards or lending procedures under § 614.4150.

[2] Public Law 92–181, 85 Stat. 583 (Dec. 10, 1971).

[3] *See* 58 FR 40311, July 28, 1993.

[4] Public Law 100–233, 101 Stat. 1568 (Jan. 6, 1988).

and for all types of loans and leases. The 25-percent lending limit represented a balance between the Agency's safety and soundness concerns and the System's concerns of being able to service the credit needs of creditworthy, eligible borrowers.[5]

The current regulations do not impose lending limits based on specified risks, such as undue industry concentrations, counterparty risk, ineffective credit administration, participation and syndication activity, inadequate management and accounting practices, or other shortcomings that might have been present in a System institution's financial position or business practices. When the Agency issued the final regulations in 1993, we stated "limiting the amount that can be lent to any one borrower or a group of related borrowers is an effective way to control concentrations of risk in a lending institution and limit the amount of risk to an institution's capital arising from losses incurred by large 'single credits.'"[6] Other than concentration of risk to a single borrower, the Agency left it up to each individual System lender to address industry, counterparty and other concentrations of risk.

III. Proposed Limit on Loans and Leases to One Borrower/Lessee

A. In General

The Agency is proposing to lower the lending and leasing limit on loans and leases (loans) to one borrower or lessee (borrower) for all System institutions operating under title I or II of the Act from the current limit of 25 percent to no more than 15 percent of an institution's lending and leasing limit base. Specifically, FCA proposes to lower the lending and leasing limit in §§ 614.4352, 614.4353 and 614.4356 to 15 percent. We are interested in receiving comments on the implications of this proposed limit for the smallest-sized associations in the System. As noted above, the calculation for the lending and leasing limit base in § 614.4351 would remain unchanged, as would the lending and leasing limit base in § 614.4355 for title III lenders. The proposed 15-percent limit would apply on the date a loan or lease is made and at all times thereafter, with certain exemptions for loans that violate the lending limit as set forth in § 614.4360.[7]

The Agency believes the proposed 15-percent limit is appropriate and necessary for the safe and sound operation of the System, given the changes in the System's structure, growth, authorities and practices since the current regulations became final in 1994. While the proposed 15-percent limit is more in line with the practices of a majority of System lenders, which have established, by policy, internal lending limits well below the current regulatory limit, some System lenders rely on the current 25-percent regulatory limit. Given the extensive System practice of establishing internal hold limits well below the regulatory maximum and the significant concentration risk a 25-percent limit represents, FCA concludes that all System lenders should be required to implement internal lending limits at or below the proposed 15-percent limit based on their institutions' specific circumstances, resources, financial condition, business activities and capability.

B. Substantial Changes in System Structure Since the 25-Percent Limit Was Adopted

Since 1994, System banks have shifted their focus from supervising their district associations to operating as funding banks that predominately extend direct loans to, and manage funding for, their district associations. In turn, all associations have become direct lenders, no longer acting as agents for the district banks or relying on district bank policies for their day-to-day operations. During this same time period, the associations have gone through significant restructurings and consolidations. Today, there are fewer than 90 associations in the System and all but a few of them are structured as agricultural credit associations with Federal land credit and production credit association subsidiaries. The proposed 15-percent lower lending limit is more appropriate to these larger consolidated direct lender associations, operating primarily as stand-alone lending institutions with greater lending capacity than ever before.

C. Substantial Growth in System Lending Capacity Since the 25-Percent Limit Was Adopted

Coupled with these operational and structural changes, there has been substantial growth in the capital bases of System institutions since 1994, giving them much greater capacity to meet the needs of large borrowers. For example, the median System institutions based on permanent capital totaled $13.7 million at year-end 1994, compared to $98.5 million at year-end 2009. This change represents a 621-percent increase in capital and has increased the 25-percent lending limit amount in the median System institution from $3.4 million to $24.6 million. Additionally, when you compare the 25-percent lending limit amount for the median System institution in 1994 to a 15-percent lending limit amount for a median System institution in 2009, there is effectively a 333-percent increase in the amount of the lending limit due to the increase in the median size of System institutions. Furthermore, when you compare the 25-percent lending limit amount for the smallest and largest System institutions in 1994 to a 15-percent lending limit amount for the smallest and largest System institutions in 2009, there is effectively an increase in the maximum amount of a loan that could be made to a single borrower from $105,000 to $822,000 (a 685-percent increase) for the smallest System institution and from $188 million to $566 million (a 202-percent increase) for the largest System institution.

Accordingly, because of the substantial growth in the System's lending capacity, the current 25-percent lending limit is no longer prudent or necessary to meet the needs of the System's borrowers. While the borrowing needs of the System's largest borrowers have also increased, the tools available to the System today (such as participations, syndications and guarantees) have made it possible to meet those needs with lower, more prudent lending and leasing limits. Such tools can also work to mitigate lending risks by enabling System lenders to share credit risk with each other as well as with other non-System lenders and governmental entities.

D. Majority of System Institution Lending Limit Practices

The Agency has found that a majority of System lenders have implemented internal lending limits at levels not only lower than the current 25-percent regulatory limit but, in many cases, lower than the proposed 15-percent limit. Therefore, the proposed 15-percent limit would be in line with a majority of the current lending practices in the System and, we believe, would not significantly disrupt System institution operations.

The Agency also believes that even with the proposed lower limit of 15 percent, the growth in System capital since 1994 leaves sufficient lending and leasing capacity in the System to adequately serve the credit needs of creditworthy, eligible borrowers.

[5] *See* 58 FR 40311, 40318, July 28, 1993.

[6] *Id.* at 40311.

[7] Section 614.4360 and its stated exemptions from the requirements of § 615.5090 remain unchanged, as noted earlier.

E. Enhanced System Authorities Since the 25-Percent Limit Was First Adopted

Since 1994, System institutions have used the authorities granted under the Act and implemented through FCA regulations to increase their loan portfolios and meet the mission of providing sound, adequate and constructive credit to American agriculture. During this time period, loans to processing and marketing operations have increased to meet the changing nature and needs of farming over the last decade and a half. Likewise, the System's ability to participate and syndicate loans both within and outside of the System has also grown since 1994. System institutions now routinely serve large borrowers by buying and selling participation and syndication interests to other System institutions and other lenders.

The System's lending authorities ensure adequate credit for the next generation of farmers and are necessary for the future of a strong and stable agricultural industry. The System's lending authorities also allow farmers and ranchers to diversify their incomes and financial portfolios. However, the varied loans made for multiple agricultural purposes are not without a degree of risk, particularly when concentrations are not identified, measured, and managed. Similarly, while the System's increased participation and syndication channels reduce the risk of credit to large borrowers and enable System institutions to continue serving such large customers notwithstanding the proposed 15-percent lower lending limit, they also are not without some risk. Such lending channels increase counterparty risks, or those risks created by the potential default of the multiple parties doing business with the System.

Therefore, System institutions must carefully manage and control the counterparty risk posed by purchasing or selling loan exposures through participations or syndications to other System and non-System lenders. With appropriate use and risk controls over syndications and participations, the Agency believes that the proposed 15-percent lower lending limit would reduce the potential risks of all large loans without jeopardizing the System's ability to provide the varied and multiple forms of credit that are necessary in today's agricultural environment.

F. Lending Limits of Other Federally Chartered Lending Institutions

We recognize that a single industry lender like the System is not comparable in many respects to other Federally chartered lending institutions with more diverse lending authorities. Consequently, different factors are considered when arriving at a lending limit for the System. Notwithstanding these differences, we note that the 15-percent proposed lower lending limit for the System is comparable to the lending limits of other Federally chartered lending institutions.[8] We do not believe, therefore, that the proposed lower limit would put System institutions at a competitive disadvantage in the agricultural lending marketplace.

G. Repeal of § 614.4354

The proposed rule would repeal § 614.4354 pertaining to Federal land bank associations (FLBAs) since such associations have all been converted to direct lending institutions. We note, however, that the repeal of § 614.4354 does not affect, modify, or change in any manner FCA's authority to charter an FLBA without direct lending authority in the future. If we were to issue such a charter at some future point, this provision of the regulation would be repromulgated to establish a lending limit for such an association.

H. Transition Period for Lower Lending Limit

As previously noted, the proposed regulations would not change the existing transition rules in § 614.4361. However, we want to make clear that this section should be read as providing that certain nonconforming loans (including commitments) made or attributed to a borrower prior to the effective date of existing subpart J, or the amendments proposed herein, will not be considered a violation of the lending and leasing limits during the existing contract terms of such loans, provided such loans complied with the regulatory lending limit when made.

IV. Policy on Limiting Exposures to Loan and Lease Concentration Risks

A. In General

In addition to proposing a lower limit on loans to one borrower, FCA is proposing that each System lender's board of directors adopt and ensure implementation of a written policy that would effectively identify, measure, limit and monitor exposures to loan and lease concentration risks. This policy should include both on- and off-balance sheet loan and lease exposures (participation and syndication activity).

The country's recent economic crisis revealed the increasing complexity and volatility of the financial world over the past few decades. The increase in types and complexity of financial instruments—including mortgage-backed securities, collateralized debt obligations and credit default swaps—along with the rise in imprudent home mortgage lending practices helped to create the current instability and uncertainty in the financial lending markets that System institutions, along with all other lenders, are experiencing today.

Like the growing complexity in the financial markets, agricultural markets and industries have also become more complex, integrated, inter-related and potentially turbulent over the years. The System has not been immune to these financial or agricultural instabilities. For instance, the recent financial woes in the biofuels industry (namely ethanol) that the System funded left many System institutions with large troubled loans with related potential loss exposures. Similarly, the recent financial troubles of the largest poultry industry producer in the United States had a domino and damaging effect on contract poultry growers throughout the industry, which demonstrated the impact of concentration risk and ultimately created credit stress in several System institutions. For these reasons, we believe enhanced focus on all loan and lease concentration risks is essential.

B. Safety and Soundness

While many System lenders have adopted policies to manage their exposures to loan concentration risks, a number of institutions do not have any formal or written policies in place. Furthermore, some of those System institutions with established internal concentration limits operate without board policies that adequately address all aspects of identifying, measuring, limiting and monitoring those concentration risks that could adversely impact the institution's financial performance. FCA believes that the proposed policy requirements would ensure a comprehensive approach to mitigating loan and lease concentration risks and would represent a best practice in loan portfolio management. Such policies would help ensure the continuance of a safe and sound System by potentially reducing exposures to concentration risks.

[8] *See, e.g.,* 12 CFR 32.3 (Office of the Comptroller of the Currency); 12 CFR 560.93 (Office of Thrift Supervision); and 12 CFR 701.21 and 12 CFR 723.8 (National Credit Union Administration).

The proposed policy requirement is intended to address vulnerabilities in System loan portfolios resulting from both on- and off-balance sheet loan concentration risks, in particular those concentration risks that are not addressed by the attribution provisions of § 614.4359.

The Agency recognizes that there is not one ideal uniform approach to a loan concentration risk mitigation policy. Accordingly, this proposal outlines only the minimally required elements of such a policy. We have placed substantial responsibility on the board of directors to establish more detailed policies and procedures appropriate to the nature and scope of their institutions' credit activities, territory and risk-bearing capacity. For example, under the category of "other concentration risks," System banks may find it necessary to develop policies that focus on district-wide loan concentrations and on the participation and syndication loans in their portfolios.

C. Policy Elements

In addition to the specific loan and lease concentration risk exposures discussed below under "Quantitative Methods" in Part D, we are proposing to require that the policy include the following elements to ensure that it is properly developed, implemented and monitored:

1. *A clearly defined purpose and objective statement* that sets forth the objectives of the policy and specific means of achieving such objectives. The Agency believes that such a statement would engage System boards of directors in forming a philosophy and direction for the management of their institutions' loan portfolio in the area of concentration risk mitigation.

2. *Clearly defined terms* that are used consistently throughout the policy.

3. *Internal control requirements that:*

a. *Define those authorities delegated to management.* Such requirements should set forth organizational structure and reporting lines that clearly delineate responsibility and accountability for all management functions pertaining to mitigating exposures to both on- and off-balance sheet loan and lease concentration risks, including risk identification, measurement, limitation and oversight. In addition, the policy should establish, when feasible, a separation of duties between personnel executing transactions and those responsible for approval, evaluation and oversight of credit activities. This separation of duties promotes integrity and accuracy in lending practices that reduces the risk of loss. Finally, the policy should cross-reference the conflict of interest regulations in part 612 of this chapter to ensure that employees directly involved in lending and leasing are aware of their responsibilities to disclose actual or apparent conflicts with their official duties.

b. *Define those authorities retained for board action.* Each institution's board of directors has a fiduciary duty to ensure that its institution's lending and leasing activities are prudently managed and in compliance with all applicable laws and regulations. Additionally, the board must ensure that the institution has adequate and qualified personnel to manage the risks associated with its lending and leasing activities. To this end, the Agency encourages each System board of directors to review its loan and lease portfolio concentration risk mitigation policy every year and make any adjustments that are necessary and proper in light of the institution's financial position and the lending environment.

c. *Address exceptions to the policy.* Such procedures should set forth the basis for detecting deviations from, and making exceptions to, the policy requirements. In addition, the policy should describe the duties and responsibilities of management with regard to recommending and reporting on policy deviations or exceptions to the institution's board of directors, including what corrective actions must be taken to restore compliance with the policy. In no event may the lending and leasing limit exceed the applicable regulatory limits for title I, II, or III institutions.

d. *Describe reporting requirements.* Such requirements should describe the content and frequency of the reports and the office or individual(s) responsible for preparing them for an institution's board of directors. The reports should focus on providing information that interprets the data and focuses the board on what is crucial to understand and consider.

D. Quantitative Methods

The Agency is proposing that each policy contain a quantitative method(s) to measure and limit identified exposures to on- and off-balance sheet loan and lease concentrations emanating from:

(i) A single borrower;

(ii) Borrowers in a single sector in the agricultural industry;

(iii) A single counterparty; or

(iv) Unique factors because of the institution's territory, nature and scope of its activities and risk-bearing capacity. Unique concentration exposures might include, but not limited to, borrowers that are reliant on the same processor, marketer, manager, integrator or supplier (or any combination thereof).

Quantitative methods could include hold limits (for example, as a percentage of risk funds, capital, earnings/net income or other appropriate measurements or methods) that reasonably measure and limit concentration risk exposures. We emphasize that the proposed 15-percent regulatory limit on loans to one borrower establishes a ceiling limit. We encourage System institutions to choose more conservative limits on loans to one borrower as a majority of them have done under the current regulatory limit. When arriving at quantitative methods, System institutions should strongly take into account the stability and strength of their capital positions and set their hold limits or other risk management measures accordingly.

The following are examples of concentration risk exposures that might be unique to a lender's territory:

- An institution has a preponderance of borrowers in its territory that are dependent on off-farm income from the same area manufacturing plant where the potential downsizing or closing of the plant could have a negative effect on loan repayment abilities.
- An institution has a preponderance of independent borrowers selling production to a very limited market (such as farmers selling eggs, sugar beets, cranberries) where a squeeze in the market could have a negative effect on loan repayment abilities.
- An institution has a preponderance of borrowers structured as limited liability companies or partnerships in which the same individuals or group of individuals own interests—not enough to trigger the attribution provisions under this subpart—but enough to create instability among the group of borrowers should the common investors experience financial difficulties.
- An institution has a preponderance of borrowers in a newly emerging market, such as biofuels, which also is an industry outside of the institution's area of expertise and in which volatile and unforeseen trends in the industry can have a negative effect on loan repayment abilities.

In all the foregoing examples, System institutions should prudently identify, measure, limit and monitor loan concentrations to these groups of borrowers.

In determining concentration risk limits, the policy should take into

consideration other risk factors that could reasonably identify foreseeable loan and lease losses. Such risk factors could include borrower risk ratings, the institution's relationship with the borrower, the borrower's knowledge and experience, loan structure, type and location of collateral (including loss given default ratings), loans to emerging industries or industries outside of an institution's area of expertise, out-of-territory loans, counterparties, or weaknesses in due diligence practices. This list is exemplary only and not meant to be exhaustive. The risk factors to be considered by an institution would depend on the unique circumstances of the institution's credit operations.

System institutions should give special consideration to counterparty risks. For example, when entering into a participation, the institution should consider how well it knows and trusts the originator to make full and fair disclosures and to competently service the loan. Conversely, when a System institution originates a participation, it must ensure that there are no material misrepresentations in its disclosures and that it has the ability to properly service the loan. System institution originators should also consider the risk of holding the entire loan should the loan become distressed and the counterparties prevail against the System institution in a lawsuit requiring the System institution to take back the participation. System institutions should consider the risks of concentrating too much of their participation and syndication loans with the same third party. Finally, System institutions should ensure that their policies prudently identify, measure, limit and monitor counterparty exposures with respect to their participation and syndication activity.

We emphasize that robust due diligence practices are especially important when institutions are making loans outside of their territories or core areas of expertise, or with counterparties.

E. Six-Month Timeframe To Issue a Policy

The proposed regulations would require all System lenders (including a title III lender) to establish written loan and lease concentration risk mitigation policies within 6 months from the effective date of these revised regulations. FCA believes that 6 months is a sufficient amount of time for System boards to design and adopt the policy requirements prescribed in new § 614.4362.

V. Regulatory Flexibility Act

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

List of Subjects in 12 CFR Part 614

Agriculture, Banks, Banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart J—Lending and Leasing Limits

§ 614.4352 [Amended]

2. Section 614.4352 is amended by:

a. Removing the comma after the word "borrower" and removing the number "25" and adding in its place, the number "15" in paragraph (a);

b. Removing the comma after the word "Act" and removing "exceeds 25" and adding in its place "exceed 15" in paragraph (b)(1); and

c. Removing the comma after the word "Act" and removing "exceeds" and adding in its place "exceed" in paragraph (b)(2).

§ 614.4353 [Amended]

3. Section 614.4353 is amended by:

a. Adding the words "direct lender" after the word "No";

b. Removing the comma after the word "borrower"; and

c. Removing "exceeds 25" and adding in its place "exceed 15".

§ 614.4354 [Removed]

4. Section 614.4354 is removed.

§ 614.4356 [Amended]

5. Section 614.4356 is amended by removing the number "25" and adding in its place, the number "15".

6. Section 614.4361 is amended by adding a new paragraph (c) to read as follows:

§ 614.4361 Transition.

* * * * *

(c) The loan and lease concentration risk mitigation policy required by § 614.4362 must be adopted and implemented within 6 months from the effective date of such section.

7. A new § 614.4362 is added to subpart J to read as follows:

§ 614.4362 Loan and lease concentration risk mitigation policy.

The board of directors of each System direct lender institution must adopt and ensure implementation of a written policy to effectively measure, limit and monitor exposures to concentration risks resulting from the institution's lending and leasing activities.

(a) *Policy elements.*

(1) The policy must include:

(i) A purpose and objective;

(ii) Clearly defined and consistently used terms;

(iii) Quantitative methods to measure and limit identified exposures to loan and lease concentration risks (as set forth in paragraph (b) of this section); and

(iv) Internal controls that delineate authorities delegated to management, authorities retained by the board, and a process for addressing exceptions and reporting requirements.

(b) *Quantitative methods.*

(1) At a minimum, the quantitative methods included in the policy must quantifiably measure and limit identified concentration risk exposures emanating from:

(i) A single borrower;

(ii) A single industry sector;

(iii) A single counterparty; or

(iv) Other lending activities unique to the institution because of its territory, the nature and scope of its activities and its risk-bearing capacity.

(2) In determining concentration limits, the policy must consider other risk factors that could reasonably identify foreseeable loan and lease losses. Such risk factors could include

borrower risk ratings, the institution's relationship with the borrower, the borrower's knowledge and experience, loan structure and purpose, type or location of collateral (including loss given default ratings), loans to emerging industries or industries outside of an institution's area of expertise, out-of-territory loans, counterparties, or weaknesses in due diligence practices.

Dated: August 12, 2010.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 2010–20367 Filed 8–17–10; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0797; Directorate Identifier 2010–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; B/E Aerospace Protective Breathing Equipment Part Number 119003–11 Installed on Various Transport Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for various transport airplanes equipped with certain B/E Aerospace protective breathing equipment (PBE) units. This proposed AD would require removing affected PBE units. This proposed AD results from reports of potentially defective potassium superoxide canisters used in PBE units, which could result in an exothermic reaction and ignition. We are proposing this AD to prevent PBE units from igniting, which could result in a fire and possible injury to the flightcrew or other persons.

DATES: We must receive comments on this proposed AD by October 4, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, KS 66215, phone: (913) 338–7378, fax: (913) 469–8419. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: David Fairback, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4154; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0797; Directorate Identifier 2010–NM–141–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have been notified that potassium superoxide canisters used in 119003–11 protective breathing equipment ignited on a vendor's test stand during quality assurance testing. Subsequent investigation revealed that potassium superoxide contained a high percentage of small particles that ignited. B/E Aerospace manufactured units with this chemical lot between February 15, 2010 and March 6, 2010. B/E Aerospace shipped 600 canisters with this lot of chemicals to part distributers, airplane manufacturers (including Airbus, ATR, Boeing, Bombardier, Embraer, Fokker, and Hawker Beechcraft), and airlines (including Emirates, Korean Airlines, and Shenzhen Airlines). This condition, if not corrected, could result in potentially defective canisters being used in on-board PBE units.

Relevant Service Information

We have reviewed B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010. This service bulletin describes procedures for doing an inspection to determine the serial number of the protective breathing equipment having part number 119003–11, and returning affected parts to B/E Aerospace.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and Service Information."

Differences Between the Proposed AD and Service Information

B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010, specifies a compliance time of within 30 days for PBE units in stock or stored as spares, and within the next maintenance check for in-service PBE units. This proposed AD would require compliance within 120 days after the effective date of this AD. B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010, specifies to return any faulty PBE units to B/E Aerospace; this proposed AD would not include that requirement.

Costs of Compliance

We estimate that this proposed AD would affect up to 600 aircraft of U.S. registry. We also estimate that it would