corrects the final regulations by revising this section.

DATES: Effective on July 19, 2004.

FOR FURTHER INFORMATION CONTACT: Mark L. Johansen, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4479, TTY (703) 883–4434; or Joy Strickland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION: The final rule published on March 9, 2004 (69 FR 10901) redesignated existing part 617 as a newly designated subpart B in part 612. Because of this redesignation, a nomenclature change in § 609.930(i) should have been included in the final rule.

List of Subjects

12 CFR Part 609

Agriculture, Banks, banking, Electronic commerce, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 612

Agriculture, Banks, banking, Conflict of interests, Rural areas.

12 CFR Part 614

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

12 CFR Part 615

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

12 CFR Part 617

Banks, banking, Criminal referrals, Criminal transactions, Embezzlement, Insider abuse, Investigations, Money laundering, Theft.

■ Accordingly, 12 CFR part 609 is corrected by making the following correcting amendment:

PART 609—ELECTRONIC COMMERCE

■ 1. The authority citation for part 609 continues to read as follows:

Authority: Sec. 5.9 of the Farm Credit Act (12 U.S.C. 2243); 5 U.S.C. 301; Pub. L. 106–229 (114 Stat. 464).

§ 609.930 [Corrected]

■ 2. Section 609.930(i) is corrected by removing the reference ''617'' and adding in its place ''612, subpart B''.

Dated: July 14, 2004.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 04–16379 Filed 7–16–04; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB87

Loan Policies and Operations; Participations

AGENCY: Farm Credit Administration.

ACTION: Final rule; response to comment.

SUMMARY: The Farm Credit Administration (FCA or agency) responds to a comment letter on a final rule that repealed regulations that required a Farm Credit System (FCS or System) bank or association to provide notice or obtain consent before purchasing participations in loans that a non-System lender originates in the chartered territory of another FCS institution. This response, which is pursuant to an order of the United States District Court for the District of Columbia dated April 8, 2004, supplements the preamble to the final rule that was published at 65 FR 24101 on April 25, 2000.

DATES: *Effective Date:* These regulations became effective on May 25, 2000. *See* 65 FR 33743.

FOR FURTHER INFORMATION CONTACT: Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434, or Richard A. Katz, Senior Attorney, Office of the General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 1998, the FCA proposed repeal of several regulations in parts 611, 614, and 618 that required System lenders operating under title I or II of the Farm Credit Act of 1971, as amended (Act) to provide notice or obtain consent before they could lend, participate in loans, or offer related services to borrowers in the chartered territory of other FCS lending institutions. *See* 63 FR 60219. The extended comment period closed on May 10, 1999.

The FCA received more than 270 comment letters from System institutions, commercial banks, trade associations, FCS and non-System customers, state agricultural commissioners, a statewide council of agricultural organizations, a United States senator, and individuals. Commercial bank commenters opposed the proposed rule, while the other commenters were evenly divided between those supporting and opposing the proposal.

The Farm Credit Bank of Texas (FCBT) and its six affiliated Federal land credit associations (FLCAs) [1] in Alabama, Louisiana, and Mississippi, and its two affiliated production credit associations (PCAs) in New Mexico sent the FCA a joint comment letter dated May 3, 1999, opposing the proposed rule. The joint comment letter stated that: (1) The FCA lacked statutory authority to enact the proposed rule; (2) the proposed rule would conflict with statutory amendments enacted in 1992; (3) geographic boundaries are an integral part of the System's statutory scheme; (4) out-of-territory credit and related services would hurt the System and its customers, especially small farmers; and (5) the proposed rule would not advance any congressionally mandated purpose.

The FCA did not repeal those regulations that require notice or consent when a System lender operating under title I or II of the Act makes direct loans or offers related services outside its chartered territory. However, the FCA adopted a final rule on April 25, 2000, that repealed the notice and consent requirements only for out-of-territory loan participations. *See* 65 FR 24101. As a result, notice and consent requirements no longer apply when a System lender purchases participations in loans that non-System lenders originate in the chartered territory of other FCS institutions.[2]

The preamble to the final rule explained that repealing the notice and consent requirements for loan participations could help: (1) Increase the flow and availability of agricultural credit; (2) improve the liquidity of non-System lenders; and (3) diversify geographic and industry concentrations in the loan portfolios of Farm Credit banks and associations. The preamble also pointed out that the chartered territory of an FCS lender does not change when it buys participations in loans that non-System lenders originate

[1] At the time that the FCA received this comment letter, the FCBT had not yet transferred direct lending authority to one of these FLCAs pursuant to section 7.6 of the Act.

[2] The final rule does not affect intra-System loan participations because the originating FCS lender consents when it sells participations in its loans to other FCS institutions.

in the territory of other System lenders. Another passage in the preamble explained that the final rule does not authorize any FCS lender to make loans directly to farmers and ranchers in the chartered territory of other System lenders. The following paragraph in the preamble to the final rule discussed the comments that the FCA received from the public:

> We received over 270 comment letters on the proposed rule. No commenter cited any statutory provision that restricts the authority of System banks and associations to participate in loans outside of their chartered territory. Only one comment letter mentioned the statutory authorities of System institutions to participate in loans.

After the final rule became effective on May 25, 2000, the FCBT and the FLCAs that submitted the joint comment letter (plaintiffs) filed suit against the FCA in the United States District Court for the District of Columbia, seeking a declaration that the final rule was invalid.[3] The plaintiffs claimed the final rule violated the Act and a 1992 amendment thereto, and that the FCA failed to comply with the procedural requirements of the Administrative Procedure Act (APA) when it enacted the final rule.

The plaintiffs raised two procedural arguments. First, they claimed that the FCA failed to respond to their comments in the preamble to the final rule. Their second claim was that the public did not have adequate notice that the FCA would only repeal the out-of-territory notice and consent requirements for loan participations and, therefore, the FCA should have sought additional comment before it enacted the final rule.

On August 21, 2001, the District Court granted the FCA's motion for summary judgment. The District Court ruled that: (1) The FCA adequately responded to the plaintiffs' comments; (2) the final rule was a logical outgrowth of the proposed rule; (3) the final rule complied with the applicable provisions of the Act; and (4) the plaintiffs waived their argument that the final loan participation rule violated the 1992 amendments because they did not raise this argument in their comment letter. *La Fed. Land Bank Ass'n, FLCA* v. *Farm Credit Admin.,* 189 F. Supp. 2d 47, (D.D.C. 2001).

The plaintiffs appealed. On July 29, 2003, the Court of Appeals ruled that the final rule did not violate the Act and the 1992 amendments thereto. *La Fed. Land Bank Ass'n, FLCA* v. *Farm Credit Admin.,* 336 F.3d 1075 (D.C. Cir., 2003). In addition, it denied the plaintiffs' petition to vacate the final rule, stating, ''we think the probability that the [FCA] will be able to justify retaining the [final] rule is sufficiently high that vacatur of the rule is not appropriate.'' *See* 336 F.3d 1075, 1085. The Court of Appeals also affirmed the District Court's finding that the FCA did not need to seek additional public comment before it repealed the notice and consent requirements for out-of-territory participations because the final rule was a logical outgrowth of the proposed rule. However, the Court of Appeals found that: (1) The plaintiffs' comment letter opposed repeal of the notice and consent requirements for both out-of-territory lending and participations; and (2) the FCA was required to address the plaintiffs' comments before enacting the final rule. The Court of Appeals reversed the judgment of the District Court with instructions to remand the matter to the FCA for a response to the plaintiffs' comments.

[3] Two FLCAs that signed the joint comment letter merged before litigation.

II. Response to the Plaintiffs

In accordance with the court's ruling, the FCA publishes this notice, which responds to the plaintiffs' joint comment letter. Our response addresses out-of-territory loan participations, which were the subject of both the final rule and the court decisions.

A. Legal Issues

The plaintiffs alleged that: (1) The FCA lacked authority to rescind regulatory restrictions on out-of-territory activities by System lenders; and (2) the proposed rule would violate several provisions of the Act and section 401 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992[4] (1992 amendments). The Court of Appeals decided both of these issues, holding that the FCA had authority under the Act and the 1992 amendments to repeal the pre-existing regulatory notice and consent requirements for out-of-territory loan participations. Accordingly, this response does not recap the plaintiffs' legal arguments, the agency's response, and the Court of Appeals' rulings. The FCA refers interested parties to the Court of Appeals' opinion if they seek a detailed discussion of the legal issues.

B. Policy Issues

In addition to its findings on the above legal issues, the Court of Appeals found that the FCA's ''only error was its failure to explain what seems to be a policy difference with the plaintiffs.'' *Id.* Accordingly, the FCA now responds to the plaintiffs' policy comments. The plaintiffs' comment letter objected to the repeal of notice or consent requirements for out-of-territory activities on policy grounds. The plaintiffs claimed that repeal of regulatory restrictions on out-of-territory activities would have a detrimental impact on both the System and its borrowers. The plaintiffs raised three arguments. Their first argument is that geographic restrictions preserve the cooperative principles, local control, and financial interdependence of the FCS. The second argument is that ending restrictions on out-of-territory activities will introduce intra-System competition that will harm small farmers, ''who are the very people the System is designed to serve.'' The plaintiffs'' final argument is that the proposed rule would not advance any congressionally mandated purpose.

1. Cooperative Principles, Local Control, and Financial Interdependence

The plaintiffs claimed that geographic boundaries reinforce the structure of System institutions, which are credit cooperatives that are owned and controlled by the local farmers who borrow from them. Accordingly, the plaintiffs believe that revoking regulatory restrictions on out-of-territory activities overturns the rights of farmer-owners to make decisions that affect their institution. Another argument that the plaintiffs raised is that allowing FCS institutions to make or participate in loans in the chartered territory of other System lenders without restriction is incompatible with an intra-System financial support structure that depends on joint and several liability and loss-sharing agreements.

The FCA responds that the final rule does not authorize any FCS institution to lend directly to borrowers outside its chartered territory without consent. As a result, the final rule does not change the System's cooperative principles, local control, or financial interdependence. Cooperative principles, borrower stock, voting rights, and borrower rights continue to apply to loans that System institutions make. However, the final rule applies only to participations in loans made by non-System lenders. The borrowers are customers of non-System commercial lenders, not the FCS; therefore, they do not enter into a contractual relationship with any FCS lender. FCS institutions may buy participations in these loans from commercial lenders, but their contractual relationship is with the lead lender, not the borrower. Accordingly, borrower stock, cooperative membership requirements, and borrower rights do not apply. For these

[4] Pub. L. 102–552, 106 Stat. 4102 (Oct. 28, 1992).

reasons, repeal of the notice and consent requirements for loan participations do not adversely affect cooperative principles and local control of System institutions.

Similarly, the final rule does not threaten the financial interdependence of System institutions. The final rule does not change the Farm Credit banks' statutory joint and several liability, or their lending relationships with their affiliated associations. In addition, the final rule does not bring FCS institutions into competition with each other for direct loans because it applies only to participations in loans that non-System lenders originate. Furthermore, System lenders participated in loans with non-System lenders long before the FCA repealed regulatory notice and consent requirements for out-of-territory participations. Loan participations with non-System lenders have never undermined the System's financial interdependence.

2. Service to Small Farmers

The plaintiffs claimed that removal of restrictions on out-of-territory activities would be detrimental to the ''very people the System is designed to serve,'' especially small farmers and ranchers. More specifically, the plaintiffs alleged that the FCA's proposal would enable the bigger FCS associations to ''cherry pick'' loans to large and profitable farm operations outside their chartered territory, leaving loans to small and struggling farmers to the local association.

First of all, the final rule addresses participations, not direct loans. More importantly, the final rule is not detrimental to small farmers. Nothing in the final rule weakens the System's statutory authority and commitment to serve small farmers. The Act expressly authorizes FCS banks and associations to participate in loans with each other and non-System lenders. Although lenders participate in credits to larger borrowers, loan participations for larger borrowers generate income and portfolio diversification which, in turn, facilitate System lending to small farmers.

3. Benefiting Agriculture

Finally, the plaintiffs' comment letter claimed that rescinding restrictions on out-of-territory activities does not advance any congressionally mandated purpose. The FCA replies that loan participations achieve a congressionally mandated purpose because several provisions of the Act expressly authorize them. Buying out-of-territory loan participations from non-System lenders improves ''the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit * * * to them,'' which is an objective that Congress established for the System in section 1.1(a) of the Act.

Eliminating territorial restrictions on loan participations promotes cooperation between System and non-System lenders, which ultimately benefits farmers and ranchers. Sound loan participation programs can increase the availability of agricultural credit for farmers and ranchers. System banks and associations can improve the liquidity of non-System lenders by purchasing participations in loans to farmers and ranchers which, in turn, enable non-System lenders to make more agricultural loans. The final rule also enables System lenders to diversify geographic and industry concentrations in loan portfolios by purchasing participations in sound loans made anywhere in the United States. Cooperation between System and non-System lenders benefits America's farmers, ranchers, and rural communities by ensuring a steady flow of agricultural credit in both good and bad economic times. For these reasons, the final rule furthers the goals that Congress set forth in the Act because it advances the System's mission of financing agriculture and rural America.

Dated: July 13, 2004.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 04–16318 Filed 7–16–04; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18585; Directorate Identifier 2004–NE–28–AD; Amendment 39–13731; AD 2004–14–22]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada PW206B, PW206C, PW206E, PW207D, and PW207E Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Pratt & Whitney Canada (PWC) PW206B engines that have incorporated PWC Service Bulletin (SB) No. 28119, and PW206C, PW206E, PW207D, and PW207E turboshaft engines. This AD requires checking the automatic low-cycle-fatigue (LCF) counting data made by the engine Data Collection Unit (DCU) on installed engines, and validating proper DCU automatic LCF counting before an engine is installed. This AD results from two reports of irregular LCF counting, observed between engines on the same helicopter, during weekly recording of LCF data in the engine log books. We are issuing this AD to prevent critical rotating parts from exceeding published life limits, which could result in uncontained engine failure and possible loss of the helicopter.

DATES: Effective August 3, 2004. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 3, 2004.

We must receive any comments on this AD by September 17, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this AD from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1.

You may examine the comments on this AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: Transport Canada (TC), which is the airworthiness authority for Canada, recently notified us that an unsafe condition may exist on PWC PW206B engines that have incorporated PWC SB No. 28119, and PW206C, PW206E, PW207D, and PW207E turboshaft engines. Transport Canada advises that two reports of