compatibility rulemakings by both the NRC and the DOT.

DATES: Proposed changes will be accepted until July 1, 2005. Proposed changes received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for proposed changes received on or before this date.

ADDRESSES: Mail proposed changes to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver proposed changes to Two White Flint North, 11545 Rockville Pike (Mail Stop T6D59), Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays.

FOR FURTHER INFORMATION CONTACT: John Cook, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–8521; e-mail: *jrc1@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The IAEA periodically revises its Regulations for the Safe Transport of Radioactive Material (TS–R–1) to reflect new information and accumulated experience. The DOT is the U.S. competent authority before the IAEA for radioactive material transportation matters. The NRC provides technical support to the DOT in this regard, particularly with respect to Type B and fissile packages.

On April 7, 2005, the IAEA posted for comment 28 proposed changes to TS–R–1. The IAEA's review process calls for Member States and International Organizations to provide comments to the IAEA by August 5, 2005. The proposed changes may be incorporated in a revised edition of the regulations in 2007, nominally to become effective worldwide in 2009. To assure opportunity for public involvement in the international regulatory development process, the DOT and the NRC are soliciting comments on the proposed changes at this time. This information will assist the DOT and the NRC in having a full range of views as the agencies develop comments the U.S. will submit to the IAEA.

The following documents are available for viewing and downloading on the Internet at: *http://hazmat.dot.gov/regs/files/IAEADraftChanges.htm.*

- Table of the regulatory changes proposed by the IAEA.
- A consolidated draft of the proposed TS–R–1 revision.
- A standard comment form for the proposed TS–R–1 revision.
- Table of the advisory material changes proposed by the IAEA.
- A consolidated draft of the proposed TS–G–1.1 revision.
- A standard comment form for the proposed TS–G–1.1 revisions.

Public comments on proposed changes must be submitted in writing (electronic file on disk in Word format preferred) using the standard comment forms referred to above. The NRC and the DOT will review the public comments received by July 1, 2005. Based in part on the information, the agencies will determine the U.S. comments on the proposed changes to be submitted to IAEA by August 5, 2005.

Comments on the proposed changes from the U.S., other Member States and International Organizations will be considered at an IAEA Review Panel Meeting to be convened by IAEA on September 5–9, 2005, in Vienna, Austria. Note that future domestic rulemakings, if necessary, will continue to follow established rulemaking procedures, including the opportunity to formally comment on proposed rules.

Dated in Rockville, Maryland, this 21st day of April 2005.

For the Nuclear Regulatory Commission.

David W. Pstrak,

Transportation and Storage Project Manager, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 05–8371 Filed 4–26–05; 8:45 am]

BILLING CODE 7590–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 627

RIN 3052–AC26

Title IV Conservators, Receivers, and Voluntary Liquidations; Receivership Repudiation Authorities

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) is proposing a rule on how the Farm Credit System Insurance Corporation (FCSIC), as receiver or conservator of a Farm Credit System (System) institution, will treat financial assets transferred by the institution in connection with a securitization or in the form of a participation. The rule would resolve issues raised by Financial Accounting Standards Board (FASB) Statement No. 140, Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities (SFAS 140). Under conditions described in the rule, the FCSIC will not seek to recover or reclaim certain financial assets in exercising its authority to repudiate or disaffirm contracts pursuant to 12 CFR 627.2725(b)(2), (b)(14) and 627.2780(b) and (d). The proposed rule also provides that the FCSIC will not seek to enforce the ''contemporaneous'' requirement of section 5.61(d) of the Farm Credit Act of 1971, as amended (Act) (12 U.S.C. 2277a–10(d)). The proposed rule is substantially identical to receivership rules issued by the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA).

DATES: Please send your comments to us by June 27, 2005.

ADDRESSES: You may send comments by electronic mail to ''*reg-comm@fca.gov*,'' through the Pending Regulations section of FCA's Web site, ''*http://www.fca.gov*,'' or through the Governmentwide ''*http://www.regulations.gov*'' Web site. You may also send comments to S. Robert Coleman, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 or by fax to (703) 734–5784. You may review copies of 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: Robert E. Donnelly, Senior Accountant, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, 703–883–4498, 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) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objective

Our objective in proposing this rule is to give certainty to System institutions regarding how participations and securitizations engaged in by a System institution will be treated by the FCSIC if the institution is subsequently placed

in conservatorship or receivership. The rule will achieve this by ensuring that the FCSIC will not attempt to ''pull back'' the subject assets into the conservatorship or receivership estate if the transaction meets specified conditions.

II. Background

Under generally accepted accounting principles (GAAP), a transfer of financial assets is accounted for as a sale if the transferor surrenders control over the assets. This principle is set forth in the SFAS No. 140, Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities, issued by the FASB.[1] One of the conditions for determining that the transferor has surrendered control is that the assets have been isolated from the transferor, *i.e.*, put presumptively beyond the reach of the transferor, its creditors, a trustee in bankruptcy, or a receiver. This is known as the ''legal isolation'' condition.

Whether the legal isolation condition has been met is determined primarily from a legal perspective. This determination involves considerations of the kind of receivership into which the transferor may be placed and the powers of the receiver to reach assets that were transferred prior to its appointment. If the available evidence provides reasonable assurance that the transferred assets would be beyond the reach of the powers of a bankruptcy trustee or receiver for the transferor, then a determination that the transferred assets have been legally isolated is appropriate.

Where the transferor is a System institution for which the FCSIC may be appointed conservator or receiver, the issue arises whether financial assets transferred in connection with a securitization or in the form of a participation would be put beyond the reach of the FCSIC as conservator or receiver. This issue arises because of the FCSIC's authority to repudiate burdensome contracts under §§ 627.2725(b)(2), (b)(14) and 627.2780(b) and (d) of FCA regulations; and because of section 5.61(d) of the Act.[2] Under §§ 627.2725(b)(2) and 627.2780(d), the FCSIC may take any action it considers appropriate or expedient to carry on the business of the institution during the process of liquidation or during the conservatorship. Under § 627.2725(b)(14), the FCSIC, when acting as conservator or receiver of a System institution, has the power to disaffirm or repudiate any contract or lease to which the institution is a party, the performance of which the FCSIC determines to be burdensome. Repudiation of a contract relieves the FCSIC from performing any unperformed obligations remaining under the contract. Section 5.61(d) of the Act provides that no agreement that tends to diminish or defeat the FCSIC's interest in an asset acquired by the FCSIC as conservator or receiver is enforceable against the FCSIC unless the agreement meets certain requirements. One of those requirements is that the agreement must be executed, by the institution and by any person claiming an adverse interest under it, contemporaneously with the acquisition of the asset by the institution. This is referred to as the ''contemporaneous'' requirement.

The FDIC and the NCUA each adopted a rule in 2000[3] to resolve the issues discussed above in SFAS 140.[4] Specifically, the two agencies addressed whether their authorities to repudiate contracts would prevent a transfer of financial assets by an insured depository institution or a credit union in connection with a securitization or in the form of a participation from satisfying the ''legal isolation'' condition of SFAS 140. The Act and FCA regulations contain substantially similar provisions that apply when the FCSIC is appointed conservator or receiver for a System institution, and we are proposing to resolve the issues in the same way.[5] As such, this preamble and proposed rule track the language of the FDIC's and NCUA's rules. We note that nothing in this proposed rule is intended to provide any System institutions with the authority to engage in any transaction that is not otherwise authorized.

III. Description of the Proposed Rule

This proposal would add a new § 627.2726 to the conservatorship and receivership provisions in part 627 of FCA's regulations. The proposed rule would apply only to those securitizations or participations in which the transfer of financial assets meets all conditions for sale accounting treatment under GAAP, other than the ''legal isolation'' condition as it applies to institutions for which the FCSIC may be appointed as conservator or receiver, which would be addressed by the proposed rule. The proposed rule provides that, for these transfers, the FCSIC will not, by exercise of its authority to repudiate contracts under § 627.2725(b)(2) or (b)(14), reclaim, recover, or recharacterize as property of the institution or the receivership any financial assets transferred by a System institution in connection with a securitization or in the form of a participation. Although the repudiation of a securitization or participation will not affect transferred financial assets, repudiation will excuse the FCSIC from performing any continuing obligations imposed by the securitization or participation. If the FCSIC, in order to terminate such continuing obligations or duties, seeks to repudiate an agreement or contract under which a System institution has transferred financial assets in connection with a securitization or in the form of a participation, the FCSIC will not seek to reclaim, recover, or recharacterize as property of the institution or the receivership such financial assets.

The definition of ''participation'' in the proposed rule is specifically limited to participations that are ''without recourse'' to the selling or ''lead'' institution. ''Without recourse'' would mean that the participation must not be subject to any agreement that requires the selling or ''lead'' institution to repurchase the participant's interest or to otherwise compensate the participant upon the borrower's default on the underlying obligation. The term ''without recourse'' does not, however, preclude the lead institution from retaining a subordinated interest in the participated obligation, against which losses are initially allocated.

The proposed rule would not apply unless the System institution received adequate consideration for the transfer of financial assets at the time of the transfer, and the documentation effecting the transfer of financial assets reflects the intent of the parties to treat the transaction as a sale, and not as a secured borrowing, for accounting purposes.

The proposed rule further provides that it will not be construed as waiving, limiting, or otherwise affecting the rights or powers of the FCSIC to take

[1] SFAS 140 replaced SFAS 125 (which had covered the same issues and was identically titled) in September 2000. SFAS 140 revised the standards for accounting for securitizations and other transfers of financial assets and collateral and required certain disclosures, but it carried over most of the provisions of SFAS 125 without reconsideration. The FDIC receivership issues and its related rule 12 CFR 360.6, which are discussed later in this preamble, are described in paragraphs 157–160 of SFAS 140.

[2] *See* 12 CFR 627.2725(b)(2), (b)(14) and 627.2780(b) and (d), and 12 U.S.C. 2277a–10(d).

[3] *See* 12 CFR 360.6 (65 FR 49189 (Aug. 11, 2000)) and 12 CFR 709.10 (65 FR 55439 (Sept. 14, 2000)).

[4] These issues were originally raised in SFAS 125, which was replaced by SFAS 140 as described in footnote 1 above. The issues continue to be discussed SFAS 140.

[5] *See* 12 U.S.C. 1821(e) for the law pertaining to the FDIC, and 12 U.S.C. 1787(b)(9) and 1788(a)(3) for the laws pertaining to the NCUA.

any action or to exercise any power not specifically limited by this section. Such rights or powers include, but are not limited to, any rights, powers or remedies of the FCSIC regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

The proposed rule further provides that the FCSIC will not seek to avoid an otherwise legally enforceable securitization agreement or participation agreement executed by a System institution solely because such agreement does not meet the ''contemporaneous'' requirement of section 5.61(d) of the Act.

The FCA intends the proposed rule to apply to securitizations and participations engaged in by System institutions while the rule is in effect, even if the rule is later amended or repealed. Section 627.2726(g) provides that any repeal or amendment of the rule by the FCA will not apply to any transfer of financial assets made in connection with a securitization or participation that was in effect before such repeal or amendment. As a result of § 627.2726(g), where a transfer of financial assets in connection with a securitization or in the form of a participation is made by a System institution and the securitization or participation was in effect before any repeal or amendment of the rule by the FCA, such transfer will continue to satisfy the legal isolation requirement notwithstanding the repeal or amendment.

We also propose a conforming change to § 627.2780(h) to clarify that the provisions of this proposed rule apply to a conservatorship as well as to a receivership.

IV. 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 627

Agriculture, Banks, Banking, Claims, Rural areas.

For the reasons stated in the preamble, we propose to amend part 627 of Chapter VI, title 12, of the Code of Federal Regulations as follows:

PART 627—CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

1. The authority citation for part 627 is revised to read as follows:

Authority: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a–7, 2277a–10).

Subpart B—Receivers and Receiverships

2. Add a new § 627.2726 to read as follows:

§ 627.2726 Treatment by the conservator or receiver of financial assets transferred in connection with a securitization or participation.

(a) *Definitions.*

Beneficial interest means debt or equity (or mixed) interests or obligations of any type issued by a special purpose entity that entitle their holders to receive payments that depend primarily on the cash flow from financial assets owned by the special purpose entity.

Financial asset means cash or a contract or instrument that conveys to one entity a contractual right to receive cash or another financial instrument from another entity.

Participation means the transfer or assignment of an undivided interest in all or part of a loan or a lease from a seller, known as the ''lead'', to a buyer, known as the ''participant'', without recourse to the lead, pursuant to an agreement between the lead and the participant. *Without recourse* means that the participation is not subject to any agreement that requires the lead to repurchase the participant's interest or to otherwise compensate the participant due to a default on the underlying obligation.

Securitization means the issuance by a special purpose entity of beneficial interests:

(1) The most senior class of which at the time of issuance is rated in one of the four highest categories assigned to long-term debt or in an equivalent short-term category (within either of which there may be sub-categories or gradations indicating relative standing) by one or more nationally recognized statistical rating organizations, or

(2) Which are sold in transactions by an issuer not involving any public offering for purposes of section 4 of the Securities Act of 1933 (15 U.S.C. 77d), as amended, or in transactions exempt from registration under such Act pursuant to Regulation S thereunder (or any successor regulation).

Special purpose entity means a trust, corporation, or other entity demonstrably distinct from the Farm Credit institution that is primarily engaged in acquiring and holding (or transferring to another special purpose entity) financial assets, and in activities related or incidental thereto, in connection with the issuance by such special purpose entity (or by another special purpose entity that acquires financial assets directly or indirectly from such special purpose entity) of beneficial interests.

(b) The receiver shall not, by exercise of its authority to repudiate contracts under § 627.2725(b)(2) and (b)(14), reclaim, recover, or recharacterize as property of the institution or the receivership any financial assets transferred by a Farm Credit institution in connection with a securitization or participation, provided that such transfer meets all conditions for sale accounting treatment under generally accepted accounting principles, other than the ''legal isolation'' condition as it applies to institutions for which the FCSIC may be appointed as receiver which is addressed by this section.

(c) Paragraph (b) of this section shall not apply unless the Farm Credit institution received adequate consideration for the transfer of financial assets at the time of the transfer, and the documentation effecting the transfer of financial assets reflects the intent of the parties to treat the transaction as a sale, and not as a secured borrowing, for accounting purposes.

(d) Paragraph (b) of this section shall not be construed as waiving, limiting, or otherwise affecting the power of the receiver to disaffirm or repudiate any agreement imposing continuing obligations or duties upon the insured depository institution in receivership.

(e) Paragraph (b) of this section shall not be construed as waiving, limiting or otherwise affecting the rights or powers of the receiver to take any action or to exercise any power not specifically limited by this section, including, but not limited to, any rights, powers or remedies of the receiver regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

(f) The receiver shall not seek to avoid an otherwise legally enforceable securitization agreement or participation agreement executed by a

Farm Credit institution solely because such agreement does not meet the ''contemporaneous'' requirement of section 5.61(d) of the Act.

(g) This section may be repealed or amended by the Farm Credit Administration, but any such repeal or amendment shall not apply to any transfers of financial assets made in connection with a securitization or participation that was in effect before such repeal or modification.

Subpart C—Conservators and Conservatorships

3. Amend § 627.2780(b) by adding a second sentence to read as follows:

§ 627.2780 Powers and duties of conservators.

* * * * *

(b) * * * The provisions of § 627.2726 shall also apply to the conservator of a Farm Credit institution.* * *

* * * * *

Dated: April 20, 2005.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 05–8237 Filed 4–26–05; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 25, 27, 29, 91, 121, 125, 129 and 135

[Docket No. FAA–2005–20245; Notice No. 23–56, 25–118, 27–41, 29–48, 91–286, 121–308, 125–47, 129–40 and 135–95]

RIN 2120–AH88

Revisions to Cockpit Voice Recorder and Digital Flight Data Recorder Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM published on February 28, 2005. In that document, the FAA proposed to amend the cockpit voice recorder and digital flight data recorder regulations for certain air carriers, operators, and aircraft manufacturers. This extension is a result of a request from the Aerospace Industries Association to extend the comment period for the NPRM.

DATES: Send your comments on or before June 28, 2005.

ADDRESSES: You may send comments [identified by Docket Number FAA–2005–20245] using any of the following methods:

- *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:* 1–202–493–2251.
- *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.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Timothy W. Shaver, Avionics Systems Branch, Aircraft Certification Service, AIR–130, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–4686; facsimile (202) 385–4651; e-mail *tim.shaver@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA continues to invite interested persons to take part in this rulemaking by submitting written comments, data, or views about the NPRM we issued on February 28, 2005 (Revisions to Cockpit Voice Recorder and Digital Flight Data Recorder Regulations (70 FR 9752) (February 28, 2005). We also invite comments about the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in that document. The most helpful comments reference a specific portion of the NPRM, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

Background

On February 28, 2005, the Federal Aviation Administration (FAA) issued Notice No. 23–56, 25–118, 27–41, 29–48, 91–286, 121–308, 125–47, 129–40 and 135–95, Revisions to Cockpit Voice Recorder and Digital Flight Data Recorder Regulations (70 FR 9752) (February 28, 2005) (''NPRM''). The comment period for the NPRM ends on April 29, 2005.

By letter dated April 1, 2005, the Aerospace Industries Association (AIA) asks the FAA to extend the NPRM's comment period by thirty days. AIA believes extensive coordination is necessary with the suppliers of ''Buyer Furnished Equipment (BFE)'' and ''Supplier Furnished Equipment (SFE)'' because of the significant and complex contents of the NPRM. AIA states an extension is necessary to provide a meaningful, thorough set of comments.

The FAA agrees with AIA's request for an extension of the comment period. We recognize the NPRM's contents are significant and complex and that a sixty-day comment period is insufficient. We also believe that additional requests for extensions will be filed shortly based on the lack of comments from those entities that will be affected by the proposals in the NPRM.

We have determined that an additional sixty days will be enough for potential commenters to collect the cost and operational data necessary to provide meaningful comments to the NPRM. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with 14 CFR 11.47(c), the FAA has reviewed the petition submitted by Aerospace Industries Association (AIA) for an extension of the comment period to the NPRM. The FAA finds that an extension of the comment period for Notice No. 23–56, 25–118, 27–41, 29–48, 91–286, 121–308, 125–47, 129–40 and 135–95 is consistent with the public interest, and that good cause exists for taking this action. The FAA also has determined that AIA has a substantive interest in the proposed rule and has shown good cause for the extension.

Accordingly, the comment period for Notice No. 23–56, 25–118, 27–41, 29–48, 91–286, 121–308, 125–47, 129–40 and 135–95 is extended until June 28, 2005.

Issued in Washington, DC, on April 21, 2005.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 05–8457 Filed 4–26–05; 8:45 am]

BILLING CODE 4910–13–P