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From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture,
Office of the Administrator,
Agricultural Marketing Service,
Office of the General Counsel,
Dairy Programs, Agricultural
Marketing Service (Washington office)
and the Offices of all Market
Administrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: July 31, 2003.

A.J. Yates,

*Administrator, Agricultural Marketing
Service.*

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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 4279

RIN 0570-AA47

Fiscal and Transfer Agent—Secondary Market Sales

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) is proposing new regulations to standardize procedures for secondary market transactions, including initial and subsequent secondary market sales. The agency is proposing to solicit for an independent party to act as a Fiscal and Transfer Agent (FTA) to coordinate secondary market activities. RBS is taking this action to assure that lenders have a standard method in place to facilitate the paperwork and accounting associated with secondary market transactions for RBS Guaranteed Loans. While authority exists for guaranteed lenders to sell loans on the secondary market, many lenders are not active in

the program because no such sales and accounting standards exist. RBS believes that implementing the FTA will result in increased secondary market sales. The intended effect of this action will be increased secondary market sales by lenders resulting in increased access to capital at competitive rates and terms by rural businesses. The FTA will serve as the record keeping facility for RBS, thus, eliminating the need for and cost of direct Government human and financial resources to administer the record keeping for sales on the secondary market.

DATES: Written comments on this proposed rule must be received on or before October 6, 2003 to be assured consideration. The comment period for the information collection under the Paperwork Reduction Act of 1995 continues through October 6, 2003.

ADDRESSES: Submit written comments either (1) via the U.S. Postal Service to the Regulations and Paperwork Management Branch, Attention: Tracy Givlekian, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742; or (2) via Federal Express Mail to the Regulations and Paperwork Management Branch, Attention: Tracy Givlekian, USDA-Rural Development, 3rd Floor, 300 7th St., SW., Washington, DC 20024. Comments may also be submitted via the Internet by addressing them to tracy.givlekian@usda.gov and must contain the word "transfer" in the subject line. All comments will be available for public inspection during regular work hours at the 300 7th Street, SW., address listed above.

FOR FURTHER INFORMATION CONTACT: Pandor H. Hadjy, Assistant Deputy Administrator, Business Programs, U.S. Department of Agriculture, Rural Business Cooperative Service, Room 5050, Stop 3220, 1400 Independence Ave., SW., Washington, DC 20250-3220, Telephone: 202-720-9693, FAX: (202) 690-0097, E-mail: pandor.hadjy@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. RBS has determined that this proposed rule

meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effect will be given to this rule, and administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RBS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Lenders participating in the Business and Industry Guaranteed Loan program are recipients of loan guarantees backed by the full faith and credit of the U.S. Government. This rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

National Environmental Policy Act Certification

The Administrator of RBS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program impacted by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.768, Business and Industry Loans.

Executive Order 12372

For the reasons set forth in the Final Rule related Notice to 7 CFR part 3015, subpart V, this program is subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials. RBS has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940-J.

Executive Order 13132, Federalism

This proposal has been reviewed for compliance with Executive Order 13132 on Federalism, and it has been determined that the regulation has no federalism implications, does not impose substantial direct compliance costs on State and local governments, and does not preempt State law.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, RBS will seek Office of Management and Budget (OMB) approval of the reporting and record keeping requirements contained in this proposed rule.

Title: Fiscal and Transfer Agent—Secondary Market Sales.

Type of Request: New collection.

Abstract: The Business and Industry (B&I) program was legislated in 1972 under section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. Secondary markets allow a lender to sell the loan and an investor to purchase the guaranteed portion of a loan, thereby increasing the lender's profit on the loan. This collection of information is necessary to standardize recordkeeping and facilitate the sale of guaranteed portions of loans on the secondary market. The agency is implementing statutory authority to establish a Fiscal and Transfer Agent (FTA) to provide central registration and act as the paying/transfer agent and administrative agent for secondary market transactions. The FTA will serve as a centralized, computerized recordkeeping facility for the Rural Business-Cooperative Service (RBS). The use of the FTA concept eliminates the need and cost for direct Government human and financial resources which will be required to administer recordkeeping transactions on the secondary market. The B&I program is administered by the Agency through Rural Development State Offices and sub-State offices serving each State.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 23.9 hours per response.

Respondents: Lending Institutions, Investors, Financial Services Firms.

Estimated Number of Respondents: 821.

Estimated Number of Responses per Respondent: 27.3.

Estimated Number of Responses: 22,385.

Estimated Total Annual Burden on Respondents: 533,920 hours.

Copies of this information collection can be obtained from Tracy Givlekian, Regulations and Paperwork Management Branch, at (202) 692-0039.

Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Comments may be sent to Tracy Givlekian, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250.

Background

RBS is proposing to implement new regulations to standardize record keeping and facilitate the sale of guaranteed portions of loans sold on the secondary market. Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988), as amended, provides legislative parameters for the sale of Guaranteed Loans on the secondary market. This section of the Act authorizes the Secretary to facilitate loan sales in accordance with regulations as established by the Secretary. RBS is implementing this existing statutory authority by promulgation of new regulations.

The Agency is proposing to implement by regulation the authority to solicit for an independent party to act as a Fiscal and Transfer Agent (FTA) to provide central registration and act as the paying/transfer agent and administrative agent for secondary

market transactions. The FTA will not be eligible to buy and sell loans. The FTA will be responsible to handle the mechanical aspects of secondary market operations. When this regulation becomes final, the Agency will enter into a contract with an independent party to act as the FTA. When that contract is in place, a **Federal Register** Notice will be issued to the public announcing the selection of the FTA as well as the date that lenders are required to use the selected FTA for processing secondary market sales under this regulation.

Current Agency regulations permit the lender to sell all or part of the guaranteed loan on the secondary market or retain the entire loan. However, there are inadequate mechanisms in place to facilitate the paperwork and accounting associated with secondary market transactions of Agency loans. While authority exists for guaranteed lenders to sell loans on the secondary market, most lenders are not active in the program.

Over the course of years of experience with secondary market sales, it has been demonstrated to the Agency that notification of subsequent sales has not consistently taken place in spite of requirements in Agency sales documents that require that notifications of subsequent sales be transmitted to the servicing office. Thus, a notification system has been in existence but has not been effective.

There are several viable options available to increase access to the capital needed to increase rural economic growth. Secondary markets allow an investor to purchase the guaranteed portion of a loan. There are several reasons why a lender may desire to sell the guaranteed portion of the loan. Selling increases the yield to the lender on the unguaranteed portion. The increased liquidity gained by selling the guaranteed portion of the loan may be used by the lender to make additional loans. The broadened customer base offers increased opportunities to sell other services offered by the lender. In addition to helping with current liquidity problems, the secondary market offers lenders a hedge against potential liquidity troubles if a lender knows that it can sell guaranteed portions if it encounters liquidity problems in the future. In rural areas, where capital is often in short supply, the secondary market allows a lender to meet the credit needs of the local business community by importing capital from other parts of the country.

The secondary market helps lenders make long-term fixed rate loans at a competitive interest rate to small

businesses. Typically, a lender will arrange forward pricing commitments with investors, in which the investor agrees to purchase the loan at a specified price if the lender delivers within a specific time. In this way, the lender knows its yield and can price accordingly. The borrower receives the fixed rate financing at competitive rates, which enables it to budget its interest costs more accurately. This provides the borrower with a reasonably stable payment while protecting the lender from interest rate risk.

The Agency is proposing to implement by regulation the authority to solicit for an independent party to act as a Fiscal and Transfer Agent (FTA) to provide central registration and act as the paying/transfer agent and administrative agent for secondary market transactions. The FTA will not be eligible to buy and sell loans. The FTA will handle the mechanical aspects of secondary market operations. When this regulation becomes final, the Agency will enter into a contract with an independent party to act as the FTA. When that contract is in place, a **Federal Register** Notice will be issued to the public announcing the selection date of the FTA as well as an Implementation Date for processing secondary market sales under this regulation.

The FTA will be responsible to serve as a central registry of owners of guaranteed loans (Holders); receive, examine, and safe keep documents received in connection with the sale; deliver to each registered holder the Certificate which evidences ownership interest; receive remittances from lenders, with respect to Guaranteed Interests; make appropriate payments to the Registered Holder together with a Statement of Account; provide the Agency with a statement of the outstanding balances of Guaranteed Loans sold on the secondary market as they appear from the FTA's books and records; and furnish the Agency with timely and current reports on program activity as directed by the Agency and which may be changed from time to time as the Agency may require. In addition, the FTA will be responsible to check key information on the settlement documents against Agency and lender records, to insure that they are accurate, and resolve any discrepancies before settlement. It is the FTA's responsibility to check to ensure that the loan has not been previously sold by the lender and/or repurchased prior to settlement. If the loan was repurchased due to default, the FTA will be responsible to obtain appropriate documentation from the lender and notify the Agency if the loan has been previously sold. If a loan was

repurchased and subsequently sold, the FTA is responsible to examine the payment history for the required 12 monthly payments since default and repurchase.

For initial sales, the FTA is responsible to monitor the first four payments of all loans sold to determine that the borrower makes payments pursuant to repayment agreements. For newly sold loans, the FTA is responsible for balance and interest paid-to-date accuracy. If the first payment is submitted incorrectly, the FTA will contact the lender and review the proper procedure for submission of payment information. The FTA will supply explanatory materials to lenders to assist with the preparation of payment information. The FTA will check all loan payments received to determine if the lender's principal balance and paid-to-date information agree with FTA records.

In order to insure that the Agency's financial interest is protected, the FTA will maintain computerized, on-line default and prepayment files. The FTA will generate a monthly Late Payment Report for each respective servicing office which lists loans 60 days or more in default. The FTA will generate additional loan status reports from time to time as directed by the Agency. The FTA will provide to each servicing office, in a format approved by the Agency, a report of initial sales approved during the previous month. The FTA is responsible for sending bills to lenders to collect fees as are authorized by regulation and sending written instructions to the lender on the correct application of loan payments if necessary. The FTA is responsible to provide technical assistance to the Agency and maintain an inventory of regulations, forms, and program guides.

The FTA is responsible to operate and maintain an in-house system consisting of all hardware, software, and procedures that will be used during the term of the agreement by the FTA to service the Secondary Market Program. As part of this program, the FTA will agree to provide the Agency with financial information as specified in contract on loan sales and is responsible for the accuracy of these records. The FTA will cooperate in the transfer of the FTA functions from it to a successor FTA upon termination or expiration of this contract, including all databases pertinent to Loan Sales. The FTA is responsible to provide timely answers to inquiries from investors, broker-dealers, and lenders concerning sales.

The FTA is responsible to prepare, authenticate, and deliver Certificates to Registered Holders or their

representatives. The FTA will receive from purchasers notifications of pending sales of Guaranteed Interests and monitor the progress of such sales. The FTA will establish and maintain a trust account on behalf of the Agency. The purpose of this account is to provide funds for the timely payment of principal and interest for securities issued under the program.

The FTA will be required to carry a fidelity bond or similar insurance in an amount commensurate with the level of funds in possession of the FTA. The bond shall be in place or evidence of a legally-binding binder in place for this coverage shall be provided by the FTA prior to contract award, preferably the required information will be provided with the proposal.

The FTA will be responsible to provide sufficient staff to act as a liaison between program participants for the purpose of handling any requests relating to secondary market sales. The FTA will be responsible to insure that the customer service function operates properly by developing, operating, and staffing an on-line customer service inquiry system that will enable customer service representatives to log each incoming telephone call and letter and track its status. Specific information as required by the agency and actions taken as a result of the inquiry must be retained for the duration of the contract and is subject to review by the Agency.

Upon awarding of the contract, the FTA is responsible for development of a Secondary Market Program Guide. The guide should describe the market for loans sold on an individual basis and the role of the FTA. The remainder of the guide may be devoted to special topics and reference materials.

The contract with the FTA will be effective on the date signed and expire 1 year after that date. The Agency shall retain the right to extend the contract for up to 4 additional years.

Due to the declining level of resources available, the Agency has determined that the most efficient way to address the record keeping problems and implement secondary market policy decisions is to require the use of the FTA. The FTA will serve as a centralized, computerized record keeping facility for the Agency. The Agency will have electronic access to information regarding the owner of the guaranteed portion, terms of the sale, accounting of the payment flow, etc.

The Small Business Administration (SBA) has utilized the FTA program since the mid-1980s and found that use of the program has resulted in several advantages: (1) Greater stability in the secondary market, (2) increased

liquidity providing additional capital to small businesses, (3) increased participation by large institutional investors, and (4) decreased interest costs to borrowers.

Establishment of the FTA could encourage program lenders currently not utilizing the secondary market to sell loans to investors. SBA has operated successfully using the FTA concept. According to the SBA Annual Report for calendar year 2001, secondary market dollar volume of agency loans rose to an all-time high during that year. The increase in secondary market activity is attributed to implementation of the FTA concept. We believe that implementation of these regulatory changes will increase participation by lenders in the secondary market and make more funds available for rural business development. The benefits of participation in the secondary market will be passed on to the rural business and rural lending institutions.

In addition, the establishment of the FTA would eliminate the need for and cost of direct Government human and financial resources required to administer record keeping for sales transactions on the secondary market. This action would be in compliance with OMB Circular A-76 which states, in part: "It is the policy of the United States Government to * * * rely on the commercially available sources to provide commercial products and services * * * the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source."

List of Subjects in 7 CFR Part 4279

Loan programs—Business and Industry, Rural areas.

Accordingly, chapter XLII, title 7, Code of Federal Regulations, is proposed to be amended as follows:

PART 4279—GUARANTEED LOANMAKING

1. The authority citation for part 4279 is revised to read as follows:

Authority: 7 U.S.C. 1988; 7 U.S.C. 1989.

Subpart A—General

2. Section 4279.75 is amended by adding two sentences at the beginning of the introductory text to read as follows:

§ 4279.75 Sale or assignment of guaranteed loan.

This section applies to all loans where the Loan Note Guarantee is issued prior to the date in the **Federal Register**

Notice announcing the selection of the Fiscal and Transfer Agent under subpart C of this part. After this date, all loans must be sold through the RBS Fiscal and Transfer Agent. * * *

* * * * *

3. Section 4279.78 is amended in paragraph (a) by adding one sentence after the heading to read as follows:

§ 4279.78 Repurchase from holder.

(a) * * * All loans sold through the FTA will be repurchased in accordance with subpart C of this part and the requirements of this paragraph. * * *

* * * * *

4. Subpart C is added to read as follows:

Subpart C—Fiscal and Transfer Agent—Secondary Market Sales

Sec.

4279.201	Purpose.
4279.202	Definitions and abbreviations.
4279.203	Fees.
4279.204	[Reserved]
4279.205	Sale of Guaranteed Loans.
4279.206–4279.222	[Reserved]
4279.223	Lender payments.
4279.224	FTA payment processing responsibilities.
4279.225–4279.231	[Reserved]
4279.232	FTA Certificate administration responsibilities.
4279.233	Disclosures to purchasers.
4279.234–4279.236	[Reserved]
4279.237	Termination of Certificates.
4279.238	[Reserved]
4279.239	Repurchase of Guaranteed Interest by Lender.
4279.240	[Reserved]
4279.241	Repurchase by the Agency.
4279.242	Default by Lender.
4279.243	Surrender of Certificate.
4279.244	Certificates lost, destroyed, stolen, mutilated, or defaced.
4279.245	Suspension or revocation of participant in secondary market.
4279.246	Eligibility and selection of FTA.
4279.247–4279.299	[Reserved]
4279.300	OMB control number.

Authority: 7 U.S.C. 1988; 7 U.S.C. 1989.

Subpart C—Fiscal and Transfer Agent—Secondary Market Sales

§ 4279.201 Purpose.

This subpart contains regulations governing the sales of Guaranteed Loans by RBS on the secondary market. This subpart applies to all loans where the Loan Note Guarantee is issued after the date in the **Federal Register** Notice announcing the selection of the Fiscal and Transfer Agent under this subpart. Guaranteed Loans sold on the secondary market prior to the date in such Notice will be regulated in accordance with subparts A and B of this part and subpart B of part 4287 of this chapter. After such date any resale of those loans will be encouraged, but not required, to

comply with the provisions of this regulation.

§ 4279.202 Definitions and abbreviations.

The definitions and abbreviations in § 4279.2 of subpart A of this part are applicable to this subpart in addition to the following:

Certificate of Beneficial Interest or "Certificate." The document that the Fiscal and Transfer Agent issues representing an undivided interest in the RBS guaranteed portion of a loan.

Detached Assignment for Guaranteed Interest Certificate. A document used by Registered Holders to transfer Certificates through the Fiscal Transfer Agent together with the original Certificate.

Fiscal and Transfer Agent (FTA). RBS Fiscal and Transfer Agent is an independent party responsible for coordinating the secondary market activities on behalf of the Agency.

FTA Due Date. The third calendar day of every month or the next business day thereafter if the third calendar day is not a business day.

Guaranteed Interest. The guaranteed portion of a Guaranteed Loan.

Guaranteed Loans. RBS Guaranteed Loans authorized under 7 U.S.C. 1932.

Implementation Date. The date in the Federal Register Notice announcing the selection of the Fiscal and Transfer Agent under this subpart after which lenders are required to sell loans in the secondary market through the FTA.

Note Rate. The interest rate on the Borrower's Promissory Note.

Registered Holder. The Certificate owner listed in the FTA's records. Registered Holders are entitled to the same rights as Holders under §§ 4279.16 and 4279.72 (a) and (b) of this part.

Request for Certification of Assignment Guarantee Agreement. The form utilized by the Holder of an Assignment Guarantee Agreement issued to the FTA in exchange for a Certificate.

Rural Business-Cooperative Service (RBS) or Agency. See the definition of "Agency" in § 4279.2(a) of this part.

Secondary Market Participation Agreement. The Agreement that delineates the rights and responsibilities of the Lender, Holder, FTA, and RBS in the secondary market.

Warranty date. The date the Secondary Market Participation Agreement is settled by the Lender and Registered Holder through FTA.

§ 4279.203 Fees.

(a) RBS will charge a program user fee which will be limited to the Agency's cost of administering the FTA program.

(b) RBS will periodically publish a list of fees in the **Federal Register**.

(c) The FTA may charge reasonable and customary servicing fees, transfer fees, and other fees as approved by RBS.

(d) FTA and the Agency reserve the right to withhold any unpaid fees owed by the Lender or Registered Holder or overpayments from any future payment they would otherwise be due.

§ 4279.204 [Reserved]

§ 4279.205 Sale of Guaranteed Loans.

(a) *Applicability.* (1) Guaranteed Loans made prior to the Implementation Date may be sold under this subpart or subparts A and B of this part and subpart B of part 4287 of this chapter.

(2) All Guaranteed Loans made after the Implementation Date of this regulation must be sold through the FTA in accordance with this part. The FTA will issue each Registered Holder a Certificate.

(b) *Sale by Lender.* (1) The Lender and Holder must execute a Secondary Market Participation Agreement and forward it to the FTA with a conformed copy of the Promissory Note. The FTA will handle the transfer of funds and issue and register a Certificate of Beneficial Interest to the Registered Holder.

(2) Lender may sell the Guaranteed Loan it has repurchased pursuant to § 4279.239 of this subpart.

(3) Lender shall be liable through the Warranty Date to the Agency for any erroneous financial information furnished to the FTA.

(4) Each Registered Holder shall receive a Certificate of Beneficial Interest.

(c) *Sale by Registered Holder.* (1) Guaranteed Loans may be sold by the Registered Holder under this subpart by providing the FTA with the Request for Certification of Assignment Guarantee Agreement.

(2) Guaranteed Loans will be sold by the Registered Holder by providing to the FTA:

(i) The Certificate of Beneficial Interest,

(ii) A Detached Assignment for Guaranteed Interest Certificate;

(iii) Applicable transfer fees, and

(iv) Any other information needed to effectuate the transfer.

(3) Transfers shall be effective when registered on the books of FTA. FTA will settle Registered Holder's account as of the last business day of the prior month.

§§ 4279.206–4279.222 [Reserved]

§ 4279.223 Lender payments.

(a) *Transmission of payments.* Lender shall send the FTA Borrower payments, less Agency approved fees, together

with account status information by the FTA Due Date. All other payments received must be remitted by Lender to FTA within 2 business days of receipt.

(b) *Late fees.* Lender shall pay the following late fees for payments not received within 2 business days of their due date. Failure by the Lender to pay these fees within 10 business days of FTA's request will constitute a default under § 4279.245 of this subpart.

(1) A late payment fee to the FTA equal to:

(i) The interest on the delinquent payment at the rate provided in the Promissory Note (less the rate of Lender's servicing fee), and

(ii) Any other fees approved under § 4279.203 of this subpart; and

(2) A late payment fee to the Agency pursuant to § 4279.203 of this subpart (collected by FTA).

(c) *Payment discrepancies.* Lender shall work with the Agency and FTA to reconcile any payment discrepancies and provide a transcript of the account. If the Lender and FTA cannot agree on the balance and interest paid-to-date within 10 business days, FTA will immediately send the Lender's and FTA's transcript to the Agency for reconciliation. The reconciliation by the Agency will be final. If the Lender fails to furnish a current transcript statement within 10 business days after the Agency's request, then the Agency may rely on the certified statement of account with supporting documentation from FTA. If any such information shall be inaccurate, whether inadvertently or otherwise, an appropriate adjustment in settlement will be made as expeditiously as possible. Upon request by FTA, the Lender shall issue at no charge a certified statement of the outstanding principal amount of the Guaranteed Interest and the effective interest rate on the Promissory Note. Failure of the Lender to provide a transcript shall result in a fee approved under § 4279.203 of this subpart and will constitute a default under § 4279.245 of this subpart.

(d) *Modifications to the Borrower's payment schedule.* Any payment modification must receive prior approval by the Registered Holder and the Agency.

§ 4279.224 FTA payment processing responsibilities.

(a) FTA shall remit to the Registered Holder payments received less applicable fees in a manner determined by the Agency.

(b) All other payments from the Lender or the Agency shall be remitted by FTA to the Registered Holder within 2 business days of receipt of

immediately available funds by the FTA.

(c) Failure of the FTA to pay the Registered Holder will be treated the same as failure of the Lender to pay the FTA. If FTA fails to make timely payment to the Registered Holder, it will pay the Registered Holder:

(1) Interest on the delinquent payment at the rate provided in the Promissory Note less applicable fees; plus

(2) A late payment fee approved under § 4279.203 of this subpart.

(d) On loan servicing actions, no response by the Registered Holder within 30 days is deemed as denial of the request.

§§ 4279.225–4279.231 [Reserved]

§ 4279.232 FTA Certificate administration responsibilities.

(a) *Administration of Certificates—FTA responsibility.* The FTA will provide for the central registration and administration of all Certificates sold including registration, transfer, and redemption.

(b) *RBS right to subrogation.* RBS is subrogated to the extent it pays a claim on a Guaranteed Loan under this subpart.

§ 4279.233 Disclosures to purchasers.

As required by law, prior to any sale or transfer, the Lender or Registered Holder must disclose to the purchaser, on a form acceptable to the Agency, information on the terms, conditions and yield.

§§ 4279.234–4279.236 [Reserved]

§ 4279.237 Termination of Certificates.

The FTA and RBS may redeem a Certificate because of default. The Certificate will cease to accrue interest as of the date of such termination, regardless of whether the Certificate is surrendered. Payment will be made only after presentation of the Certificate to FTA by the Registered Holder. The Registered Holder shall pay a final transfer fee approved under § 4279.203 of this subpart upon redemption.

§ 4279.238 [Reserved]

§ 4279.239 Repurchase of Guaranteed Interest by Lender.

Where the decision is for the Lender to purchase the Guaranteed Interest in accordance with § 4279.78 of this part, FTA, at its option, may request a transcript of account from the Lender in accordance with § 4279.223(c) of this subpart. Subject to any necessary reconciliation, the Lender will give FTA 10 business days' written notice of the purchase. Within 2 business days of receiving notice, FTA will notify the

Registered Holder of the repurchase and request the Certificate. On the date of repurchase, the Lender will forward a payment to FTA that includes the outstanding principal balance of the Guaranteed Interest plus interest through the closing date. FTA shall remit this payment, less FTA approved fees, to the Registered Holder within 2 business days.

§ 4279.240 [Reserved]

§ 4279.241 Repurchase by the Agency.

The Agency may repurchase the Guaranteed Interest and request a transcription in accordance with § 4279.223(c) of this subpart. Written notices will be given to the Lender and FTA when the Agency is to purchase the Guaranteed Interest. The Agency shall not be liable for any amount attributable to any late payment fees due FTA or the Registered Holder.

§ 4279.242 Default by Lender.

The Agency can purchase the Guaranteed Loan when the Lender fails to timely pay the Registered Holder or FTA.

§ 4279.243 Surrender of Certificate.

Failure of the Registered Holder to submit the Certificate to FTA for redemption on the date of payment specified by the Agency or FTA will not entitle the Registered Holder to accrued interest beyond such date and will subject them to a fee approved under § 4279.203 of this subpart.

§ 4279.244 Certificates lost, destroyed, stolen, mutilated or defaced.

Procedures for claims resulting from loss, theft, destruction, mutilation, or defacement of a Certificate shall be the same as those for replacement of a Loan Note Guarantee found in § 4279.84 of this part.

§ 4279.245 Suspension or revocation of participant in secondary market.

The Agency may suspend, debar or otherwise revoke the privilege of a Lender, broker, dealer, FTA, or Registered Holder to sell, purchase, broker, or deal in Guaranteed Loans or Certificates for committing a material violation of:

- (a) These regulations;
- (b) Agreements made pursuant to these regulations; or
- (c) Knowingly submitting false or fraudulent information to RBS or FTA; in accordance with 7 CFR part 3017.

§ 4279.246 Eligibility and selection of FTA.

(a) The selected FTA must be financially responsible and have demonstrated experience in secondary

market loan sales. The FTA must comply with all laws and regulations applicable to transactions under this subpart.

(b) The Agency will award a contract with an independent party to act as the FTA.

(c) The contract with the FTA will expire in 1 year. The Agency shall retain the right to extend the contract for up to 4 additional years.

(d) The selected FTA must agree to allow the Agency access to any of the records or facilities of the FTA, as they pertain to activities authorized under this subpart, and as provided by the contract.

§§ 4279.247–4279.299 [Reserved]

§ 4279.300 OMB control number. [Reserved]

Dated: July 31, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 03–19987 Filed 8–5–03; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–332–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 650 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Cessna Model 650 airplanes. This proposal would require repetitive replacement of the horizontal stabilizer primary trim actuator assembly (HSTA) with a repaired assembly. This action is necessary to prevent uncommanded movement of the horizontal stabilizer, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 22, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–332–AD, 1601 Lind Avenue, SW.,

Renton, Washington 98055–4056.

Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2002–NM–332–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Cessna Aircraft Co., PO Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT:

Robert P. Busto, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4157; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments