

Proposed Rules

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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB-97-01]

Tobacco Inspection—Growers Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of referendum.

SUMMARY: This document announces that a referendum will be conducted by mail during the period of March 24–28, 1997, for producers of flue-cured tobacco who sell their tobacco at auction in Tabor City and Whiteville, North Carolina, to determine producer approval of the designation of the Tabor City and Whiteville tobacco markets as one consolidated auction market.

DATES: The referendum will be held March 24–28, 1997.

FOR FURTHER INFORMATION CONTACT:

William Coats, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 96456, Washington, D.C. 20090-6456; telephone number (202) 205-0508.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a mail referendum on the designation of a consolidated auction market at Tabor City and Whiteville, North Carolina. Tabor City and Whiteville were designated on June 26, 1942, (7 CFR 29.8001) as flue-cured tobacco auction markets under the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*). Under this Act those markets have been receiving mandatory grading services from USDA.

On August 6, 1996, an application was made to the Secretary of Agriculture to consolidate the designated markets of Tabor City and Whiteville, North Carolina. The application, filed by warehouse operators on those markets, was made pursuant to the regulations promulgated under the Tobacco Inspection Act (7

CFR Part 29.1–29.3). On November 6, 1996, a public hearing was held in Tabor City, North Carolina, pursuant to the regulations. A Review Committee, established pursuant to § 29.3(h) of the regulations 7 CFR 29.3(h)), has reviewed and considered the application, the testimony presented at the hearing, the exhibits received in evidence, and other available information. The Committee recommended to the Secretary that the application be granted and the Secretary approved the application on February 19, 1997.

Before a new market can be officially designated, a referendum must be held to determine that a two-thirds majority of producers favor the designation. It is hereby determined that the referendum will be held by mail during the period of March 24–28, 1997. The purpose of the referendum is to determine whether farmers who sold their tobacco on the designated markets at Tabor City and Whiteville are in favor of, or opposed to, the designation of the consolidated market for the 1997 and succeeding crop years. Accordingly, if a two-thirds majority of those tobacco producers voting in the referendum favor this consolidation, a new market will be designated as and will be called Tabor City-Whiteville.

To be eligible to vote in the referendum a tobacco producer must have sold flue-cured tobacco on either the Tabor City or Whiteville, North Carolina, auction markets during the 1996 marketing season. Any farmer who believes he or she is eligible to vote in the referendum but has not received a mail ballot by March 24, 1997, should immediately contact William Coats at (202) 205-0508.

The referendum will be held in accordance with the provisions for referenda of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations for such referendum set forth in 7 CFR 29.74.

Dated: March 7, 1997.

Lon Hatamiya,
Administrator.

[FR Doc. 97-6265 Filed 3-12-97; 8:45 am]

BILLING CODE 3410-02-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Interpretive Rulings and Policy Statements (IRPS)

AGENCY: National Credit Union Administration (NCUA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The NCUA solicits comment on a proposal to revise its existing Interpretive Rulings and Policy Statements (IRPS). This proposal, which is one part of NCUA's Regulatory Review Program, is intended to ease the compliance burden on federally chartered and federally insured credit unions and provide more valuable guidance by updating and simplifying ineffective or outmoded IRPS. Proposed options include the withdrawal of all outdated and nonessential IRPS, the redesignation of IRPS into the NCUA rules, the transference of guidance now provided in the IRPS into NCUA instructional manuals or directives, and the preservation of beneficial IRPS.

DATES: Comments must be received on or before May 12, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT:

Martin "Sparky" Conrey, Staff Attorney, or Nicole Sippial Williams, Staff Attorney, Division of Operations, Office of the General Counsel, at the above address or by telephone at (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Background

Section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 requires each federal financial institution regulatory agency represented by the Federal Financial Institutions Examination Council (FFIEC) to conduct a review of regulations at least once every 10 years to identify outdated or unnecessary

regulatory requirements. The NCUA has made regulatory review a high priority and has already initiated its own Regulatory Review Program. As one part of its ongoing Regulatory Review Program, NCUA performed a preliminary review of the IRPS to determine their current effectiveness. The goal of this part of the Regulatory Review Program is to ease the compliance burden of federally chartered and insured credit unions by revising and eliminating IRPS that do not effectively advance NCUA's regulatory goals and statutory responsibilities. Another objective is to improve clarity and thus better communicate the interpretations and policies of NCUA advanced by the IRPS.

II. Proposed Regulatory Action

The IRPS are a collection of interpretive rulings and general statements of policy that explain, clarify, and interpret the statutes and rules under which NCUA operates and that set forth NCUA's position on issues

affecting federal credit unions. NCUA publishes the IRPS, which date back to 1979, in the Federal Register and provides a copy of them to all federally insured credit unions. Although the rules, regulations, and interpretative positions of NCUA evolved over the years, many of the IRPS remained unchanged since their initial publication. As a result, a number of the IRPS may be either outdated or nonessential and may need to be either removed, revised, or reorganized.

NCUA solicits comments on the potential actions that may be taken with regard to each of the active IRPS. Table 1, below, lays out NCUA's proposal. Table 1 sets forth four columns: (1) IRPS Number (all IRPS that have not been formally withdrawn in the Federal Register are listed); (2) IRPS Subject Heading; (3) Federal Register Citation; and (4) Proposed NCUA Board Action. NCUA uses the following categories to describe the possible action it is contemplating for each currently active IRPS: (1) "Withdraw"—NCUA suggests

formally withdrawing outdated or unnecessary IRPS [those IRPS that have been superseded by other IRPS or NCUA rules are listed as "Withdrawn; Superseded" and the controlling IRPS or rule is cited]; (2) "Redesignate"—NCUA suggests formally redesignating regulatory IRPS into the appropriate CFR section of the NCUA rules; (3) "Transfer"—NCUA suggests withdrawing the IRPS and informally transferring information from interpretive IRPS into NCUA instructional manuals or agency directives; and (4) "No Change"—NCUA suggests maintaining these IRPS substantively unchanged, making only format, stylistic, and numeric changes.

Since all federally chartered and federally insured credit unions should have complete sets of the IRPS, and in the interests of printing economy, the IRPS have not been set out in full text. However, copies of the IRPS can be obtained off of NCUA's Website at www.ncua.gov or from the NCUA contacts listed in this notice.

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS

IRPS number	IRPS subject heading	Federal Register citation	Proposed action
IRPS No. 79-1	Statement of Policy Regarding Relationship of Credit Union Service Corporations and Existing Accounting Service Centers.	44 FR 21762, Apr. 12, 1979	Withdraw
IRPS No. 79-2	Share Accounts	44 FR 39382, July 6, 1979	Withdraw
IRPS No. 79-3	Amortization of Long Term Real Estate Loans	44 FR 39182, July 5, 1979	Withdraw
IRPS No. 79-4	Investment Activities	44 FR 51195, Aug. 31, 1979	Withdraw
IRPS No. 79-5	Insurance Activities	44 FR 43711, July 26, 1979	Withdraw
IRPS No. 79-6	Donations/Contributions	44 FR 56691, Oct. 2, 1979	Redesignate
IRPS No. 79-7	Liquidity Reserve	44 FR 61172, Oct. 24, 1979	Withdraw
IRPS No. 79-8	Public Observance and Availability of Information Regarding Board Meetings; Interim Sunshine Act Policy Statement.	44 FR 70709, Dec. 10, 1979	Superseded by Regs. §§ 791.9-18
IRPS No. 79-9	Rate of Interest	44 FR 74799, Dec. 18, 1979	Withdraw
IRPS No. 79-10	Notice of Proposed Consumer Program	45 FR 7738, Feb. 4, 1980	Superseded by IRPS 80-7

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS—Continued

IRPS number	IRPS subject heading	Federal Register citation	Proposed action
IRPS No. 80-1	Joint Notice of Statement of Policy on Disclosure of Statutory Enforcement Actions on Behalf of the Agencies Represented on the FFIEC.	45 FR 6648, Jan. 29, 1980	Redesignate
IRPS No. 80-2	National Environmental Policy Act	45 FR 12211, Feb. 25, 1980	No Change
IRPS No. 80-3	Corporate Central Federal Credit Union	45 FR 14202, Mar. 5, 1980	Withdrawn 49 FR 50370, Dec. 28, 1984
IRPS No. 80-4	Central Liquidity Facility; Policy Regarding Protracted Adjustment Credit	45 FR 24288, Apr. 9, 1980	Redesignate
IRPS No. 80-5	Shared and Proprietary Remote Service Units	45 FR 32290, May 16, 1980	Withdrawn 47 FR 33950, Aug. 5, 1982
IRPS No. 80-6	Shared and Proprietary Remote Service Units Programs and Correspondent Credit Unioning Programs.	45 FR 32292, May 16, 1980	Withdrawn 47 FR 33950, Aug. 5, 1982
IRPS No. 80-7	Final Notice of Consumer Program	45 FR 50260, July 28, 1980	Withdraw
IRPS No. 80-8	Return of Capital Upon Withdrawal From Membership in CLF	45 FR 47119, July 14, 1980	Redesignate
IRPS No. 80-9	Flood Insurance—Use of Map Information Facility	45 FR 58101, Sept. 2, 1980	Withdrawn 46 FR 71353, Oct. 28, 1980
IRPS No. 80-10	When Federal Credit Unions Can Charge More Than 15% Per Annum on Government Insured or Guaranteed Loans.	45 FR 71353, Oct. 28, 1980	Withdraw
IRPS No. 80-11	State Chartered Federally Insured Credit Unions as Most Favored Lenders	45 FR 78625, Nov. 26, 1980	Superseded by IRPS 81-3
IRPS No. 80-12	Verification of Member Accounts	46 FR 9919, Jan. 30, 1981	Withdraw
IRPS No. 81-1	Definitions—Exclusions From Gross Income In Computing Reserve Requirements	46 FR 13204, Feb. 20, 1981	Withdraw
IRPS No. 81-2	Federal Funds	46 FR 14887, Mar. 3, 1981	Withdraw
IRPS No. 81-3	State Chartered Federally Insured Credit Unions as "Most Favored Lenders"	46 FR 24153, Apr. 30, 1981	No Change
IRPS No. 81-4	Developing Government Regulations	46 FR 29248, June 1, 1981	Superseded by IRPS 87-2
IRPS No. 81-5	Proposed Policy Statement Release of Consumer Examination Reports	46 FR 29575, June 2, 1981	Withdraw
IRPS No. 81-6	Examination of Independent Credit Union Service Centers	46 FR 44421, Sept. 4, 1981	Withdraw

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS—Continued

IRPS number	IRPS subject heading	Federal Register citation	Proposed action
IRPS No. 81-7	Sale-and-Leaseback Arrangements	46 FR 46303, Sept. 18, 1981	Transfer
IRPS No. 81-8	Full and Fair Disclosure Requirements	47 FR 23685, June 1, 1982	Withdraw
IRPS No. 81-9	Share, Share Draft and Share Certificate Accounts	46 FR 57668, Nov. 25, 1981	Withdraw
IRPS No. 82-1	Membership in Federal Credit Unions	47 FR 16775, Apr. 20, 1982	Superseded by IRPS 82-3
IRPS No. 82-2	Payout Priorities for Involuntary Liquidation of Federally-Insured Credit Unions	47 FR 18122, Apr. 28, 1982	Withdrawn 51 FR 43383, Dec. 2, 1986
IRPS No. 82-3	Membership in Federal Credit Unions	47 FR 26808, June 22, 1982	Superseded by IRPS 84-1
IRPS No. 82-4	Examination for Compliance With State Unclaimed Property Laws	47 FR 53325, Nov. 26, 1982	No Change
IRPS No. 82-5	Statutory Lien	47 FR 57483, Dec. 27, 1982	Redesignate
IRPS No. 82-6	Corporate Federal Credit Union Chartering Guidelines	47 FR 43943, Oct. 5, 1982	Withdraw
IRPS No. 83-1	Truth in Lending; Enforcement Guidelines and Restitution Review Procedures	48 FR 7159, Feb. 18, 1983	Redesignate
IRPS No. 83-2	Membership in Federal Credit Unions	48 FR 22899, May 23, 1983	Superseded by IRPS 84-1
IRPS No. 83-3	Federal Credit Union Leasing of Personal Property to Members	48 FR 52568, Nov. 21, 1983	Redesignate
IRPS No. 84-1	Membership in Federal Credit Unions	49 FR 46536, Nov. 27, 1984	Superseded by IRPS 89-1
IRPS No. 85-1	Trustees and Custodians of Pension Plans	50 FR 48176, Nov. 22, 1985	Redesignate
IRPS No. 85-2	Repurchase Agreements of Depository Institutions with Securities Dealers and Others	50 FR 48372, Nov. 25, 1985	No Change
IRPS No. 85-3	Assumption of Real Estate Loans by Nonmembers	50 FR 51840, Dec. 20, 1985	Redesignate
IRPS No. 86-1	General Policy on Sharing Confidential Supervisory Information With State Banking and Thrift Regulatory Agencies.	51 FR 16292, May 2, 1986	No Change
IRPS No. 86-2	Joint Policy Statement on Basic Financial Services (FFIEC)	51 FR 42083, Nov. 21, 1986	No Change

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS—Continued

IRPS number	IRPS subject heading	Federal Register citation	Proposed action
IRPS No. 87-1	Guidelines For Compliance With Federal Bank Bribery Law	52 FR 38821, Oct. 19, 1987	No Change
IRPS No. 87-2	Developing and Reviewing Government Regulations	52 FR 35231, Sept. 18, 1987	No Change
IRPS No. 88-1	Policy on Selection of Securities Dealers and Unsuitable Investment Practices	53 FR 18268, May 23, 1988	Superseded by IRPS 92-1
IRPS No. 89-1	Chartering and Field of Membership Policy	54 FR 31165, July 27, 1989	Superseded by IRPS 94-1
IRPS No. 92-1	Supervisory Policy Statement on Securities Activities (FFIEC)	57 FR 22157, May 27, 1992	No Change
IRPS No. 94-1	Chartering and Field of Membership Policy	59 FR 29066, June 3, 1994	No Change
IRPS No. 95-1	Guidelines for the Supervisory Review Committee	60 FR 14795, Mar. 20, 1995	No Change
IRPS No. 96-1	Federal Credit Union Field of Membership and Chartering Policy	61 FR 11721, Mar. 22, 1996	No Change
IRPS No. 96-2	Federal Credit Union Field of Membership and Chartering Policy	61 FR 59305, Nov. 22, 1996	Withdrawn

III. Request for Comments

NCUA invites the public to review the IRPS and solicits comment on any issue, concern, or suggestion that the public may have concerning NCUA's proposal to revise and update the IRPS. The questions presented below (numbered consecutively 1 through 8 for ease of reference) are intended to elicit comments on all significant issues. However, the list is not intended to be exclusive. NCUA seeks comments on any and all relevant issues. In commenting, please remember that a comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. Any IRPS subject to redesignation as a regulation will be separately noticed for public comment at a later date.

Questions

1. Is there a continuing need for each of the IRPS designated as no change?

(a). What financial soundness, economic, supervisory, or other benefits derive from each IRPS?

(b). What financial, compliance, or other burdens has each IRPS imposed on credit unions?

2. Do you agree with the NCUA's proposed action pertaining to each individual IRPS to either withdraw, redesignate, transfer, or maintain that specific IRPS?

(a). Which NCUA Regulation do you believe each IRPS listed for redesignation should be incorporated?

(b). Do you have any other suggestions as to what actions NCUA can take to improve and update the IRPS?

3. Do you foresee any potential problems with NCUA's proposal to incorporate some of the IRPS into either the NCUA Rules and Regulations or into NCUA Directives such as the NCUA Accounting Manual for FCUs, the FCU Supervisory Committee Guidelines, or a NCUA Letter to Credit Unions?

4. Are there any issues of (1) IRPS timing, any desired phase-in, phase-out, or grandfathering of any IRPS withdrawal, redesignation, or transfer, or of (2) IRPS potential placement—which specific regulation or directive

should contain the information currently included in an IRPS?

5. Are there any IRPS that you believe need to be substantially reworked or clarified? If so, please provide details.

(a). How would your changes affect the benefits provided by each IRPS?

(b). Would your changes affect the burdens imposed on credit unions?

(c). Along with your comments concerning all the IRPS, what specific changes or revisions, if any, do you feel need to be made to IRPS 83-3, FCU Leasing of Personal Property to Members?

6. Do any of the IRPS overlap or conflict with other federal, state, or local laws or regulations? Are any issues of federalism or preemption raised? If a conflict exists, can NCUA take a less intrusive approach while maintaining the goals of a particular IRPS?

7. What effects, if any, have changes in relevant technology, economic conditions, or business protocols had on any of the IRPS?

8. Do you think that the IRPS NCUA proposes to maintain should be republished in the CFR as an Appendix

to their relevant CFR Part? If not, do you think that the IRPS NCUA proposes to maintain should be renumbered?

By the National Credit Union Board on March 7, 1997.

Becky Baker,

Secretary to the Board.

[FR Doc. 97-6381 Filed 3-12-97; 8:45 am]

BILLING CODE 7535-01-P

12 CFR Chapter VII

Federal Credit Union Bylaws

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The NCUA Board proposes to revise and reorganize its Federal Credit Union Bylaws and Federal Credit Union Standard Bylaw Amendments in connection with its Regulation Review Program (Program). This proposal is one component of the Program to update and streamline NCUA regulations, focus regulations on key safety and soundness concerns and agency objectives, and eliminate requirements that impose inefficient and costly regulatory burdens on federally insured credit unions. The purpose of this notice is to solicit comments to help guide the preparation of a proposed rule which would clarify, revise and reorganize existing FCU Bylaws and eliminate bylaws that are obsolete. This notice presents only a general description of the bylaw changes being considered and includes no regulatory text. Comments will again be solicited when a proposed rule is issued with regulatory text.

DATES: Comments must be received by May 12, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428 or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Background

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI)(12 U.S.C. § 4803(a)) requires the

Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to review their regulations in order to streamline and modify their regulations to improve efficiency, reduce unnecessary costs, eliminate unwarranted constraints on credit availability and to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policy. Although not statutorily mandated to engage in the review, the NCUA Board agrees with the policies and goals set forth in the CDRI and has voluntarily set up its own Program.

The goal of the Program is to review all of the NCUA's rules and regulations to eliminate regulatory requirements that impose inefficient and costly regulatory burdens on federally insured credit unions, to eliminate requirements that do not contribute significantly to maintaining safety and soundness, and to revise rules that do not effectively advance the NCUA's other goals and statutory responsibilities. This review process will be ongoing. It began in 1995 with a complete revision of part 741, Requirements for Insurance.¹

FCU Bylaws

Section 108 of the FCU Act, 12 U.S.C. 1758, requires the NCUA Board to prepare bylaws which shall be used by all FCUs. Currently, the bylaws are approved by the NCUA Board and published in two manuals, Federal Credit Union Bylaws² (FCU Bylaws) and Federal Credit Union Standard Bylaw Amendments and Guidelines³ (Standard Bylaw Amendments). The manuals are made available to FCUs upon request. The bylaws contained in the two manuals may be adopted by an FCU without approval from NCUA. An FCU must request approval to adopt a bylaw not contained in the manuals (nonstandard bylaw amendment) from its Regional Director. The Regional Director reviews all of the requests. After consulting with the other Regional Directors and the Office of General Counsel, the Regional Director advises the FCU whether its nonstandard bylaw amendment has been approved. As the requests for nonstandard amendments continue to increase, the process has become burdensome for FCUs and NCUA staff.

Request for Comments

There are several problems associated with the current FCU Bylaws and

Standard Bylaw Amendments. Below is a general discussion of some of the problem areas and a request for comment.

1. FCU Bylaws and Standard Bylaw Amendments are not published in the Federal Register or codified in NCUA's Regulations. This is problematic for two reasons. First, the bylaws are not easily accessible to the general public, to the same extent as they would be if they were incorporated into NCUA's Regulations and published in the CFR. Second, a federal court⁴ held that NCUA's interpretation of its bylaws is accorded deference only if issued as a regulation. In order to ensure that its bylaws are enforceable, the Board is considering publishing them as a regulation. However, this would limit the Board's flexibility. Notice and comment rulemaking would be required to effect changes. The Board suggests a process where annually a proposal is submitted to the Board to adopt changes to the bylaws. The proposal will be based upon the requests received by the six Regions for bylaw amendments throughout the prior year. Under this model, there would no longer be nonstandard amendments. This may create a hardship for an FCU with unique circumstances. The Board is interested in receiving comments on alternative ways to deal with this issue.

2. Permissible bylaws for FCUs are currently contained in two publications. In order to simplify the selection procedure for FCUs the Board believes that all FCU bylaws should be published in one place, either the regulations or one manual. It is envisioned that the revised bylaws will be more flexible by having more fill in the blanks, so that one bylaw can be modified to suit the needs of FCUs with vastly different operations. In the event alternative bylaws are necessary, they will be published side by side and an FCU will choose the one most suited to its operation.

3. Many of the current FCU Bylaws and Standard Bylaw Amendments are duplicative and outdated. The bylaws have not been thoroughly updated for many years. By eliminating unnecessary bylaws, NCUA hopes to reduce regulatory compliance costs.

Some obvious examples of outdated or duplicative provisions that can be deleted are:

- Article III, Section 3—Delete the 6 month time requirement allowed to pay one share (outdated);

¹ 60 FR 58502 (November 28, 1995).

² Revised 12/87.

³ Revised 10/91.

⁴ An unpublished opinion, *Madias v. Dearborn FCU*, Civ. Act. No. 96-40043, (E.D. MI, So. Div. 1996).