

address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a change to the term of office and nomination deadlines currently prescribed under the Vidalia onion marketing order. A comment period of 30 days is deemed appropriate because January 1, 2000, is the beginning of fiscal period established by a separate action and the term of office prescribed by this action corresponds with that date. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The change in the term of office is January 1, 2000, to correspond with the beginning of the fiscal period recently established in a separate action; and (2) a 30-day comment period is provided and all comments received will be considered in finalizing this action.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new § 955.121 is added to read as follows:

§ 955.121 Change in term of office.

Pursuant to § 955.21, the term of office for the Committee shall be for two years beginning January 1 and ending December 31, except that, the term of office for members and alternates whose terms expired on September 15, 1999, shall end on December 31, 1999, or until qualified successors are selected.

3. A new § 955.122 is added to read as follows:

§ 955.122 Change in nomination deadlines.

Pursuant to § 955.22, the Committee shall hold or cause to be held not later than October 1 of each year a meeting or meetings of growers for the purpose of designating one nominee for each position as member and for each position as alternate of the Committee which is vacant, or about to become vacant. Such nominations shall be supplied to the Secretary in such manner and form as the Secretary may prescribe, not later than October 15 of each year. The grower members shall nominate the public member and alternate public member at the first meeting following the selection of members for a new term of office. Nominations for the public member and alternate public member shall be supplied to the Secretary in such manner and form as the Secretary may prescribe, not later than February 15.

Dated: December 20, 1999.

James R. Frazier,

Acting Deputy Administrator, Fruit and Vegetable Programs.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA is issuing a final rule that amends its regulation regarding secondary capital accounts in low-income designated credit unions to specify that interest on these accounts may be accrued in the account, paid directly to the investor, or paid into a separate account from which an investor may make withdrawals. The NCUA believes that these amendments will clarify the permissible alternatives and provide additional flexibility for low-income designated credit unions.

DATES: This rule is effective January 26, 2000.

FOR FURTHER INFORMATION CONTACT:

Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Background

Federal credit unions that serve predominantly low-income members

may be designated by NCUA as low-income credit unions (LICUs). LICUs play an important role in providing financial services to low-income individuals and communities for whom these services are often unavailable. LICUs often find it difficult, however, to accumulate capital due to the limited resources of their members. In response to this obstacle, § 701.34 of NCUA's regulations permits LICUs to offer secondary capital accounts to nonnatural person members and nonnatural person nonmembers.

Section 701.34 makes it clear that funds in the secondary capital account, including accrued interest paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. Section 701.34 may not have clearly stated, however, that although interest paid into the secondary capital account must remain there until account maturity, credit unions have flexibility to use other permissible alternatives for disposing of accrued interest. To clarify this, NCUA issued a proposed rule that specified that in addition to depositing accrued interest into the secondary capital account, a credit union may pay the interest directly to the investor or deposit it into a separate account from which the investor could make withdrawals. 64 FR 40786 (July 28, 1999). The proposed rule also clarified that net available reserves and undivided earnings, as discussed above, are reserves and undivided earnings exclusive of allowance accounts for loan losses. Allowance accounts for investment losses used to be considered in determining net available reserves and undivided earnings, but are no longer as they are no longer recognized by generally accepted accounting principles or NCUA's regulatory accounting practices.

Summary of Comments

The NCUA Board received five comment letters in response to the proposed rule: four from credit union trade associations and one from a federal credit union. All of the commenters generally supported the proposed rule and made other specific recommendations.

Two commenters suggested that secondary capital accounts, or similar programs, should be made available to all credit unions not just LICUs. Secondary capital accounts are presently and have historically been intended to address the specific needs of LICUs, especially the difficulty many have in accumulating capital. Any change in this approach is not a matter

before the Board in consideration of this proposal.

One commenter suggested that credit unions and their investors with existing secondary capital account agreements should be able to voluntarily modify those agreements to alter the manner in which interest accrued in the future is treated. NCUA does not object to this so long as the secondary capital agreements are properly amended and it only applies to future interest to be accrued and not to interest already paid into the secondary capital account.

Two commenters stated that the disclosures and acknowledgment required in the Appendix to § 701.34 should be modified. Specifically, they suggested including language that would indicate which method of paying accrued interest has been agreed to by the LICU and its investor. We agree and have incorporated this suggestion into the Appendix to § 701.34.

One commenter stated that an investor should have the option of having interest payments directed to accounts outside of the LICU if it wishes. The proposed rule permits interest payments to be directed to a separate account from which an investor may make withdrawals. NCUA intends for this option to include accounts outside of the LICU.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions, meaning those under \$1 million in assets.

The NCUA has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendments to § 701.34 only clarify the permissible alternatives LICUs have in disposing of accrued interest on secondary capital accounts. The amendments provide LICUs with additional flexibility without imposing any costs or significant regulatory requirements. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the amendments to § 701.34 do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." This rule will not have a direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this rule does not constitute a significant regulatory action for purposes of the executive order.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 16, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above 12 CFR part 701 is amended as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.34 is amended by revising paragraph (b)(7) to read as follows:

§ 701.34 Designation of low-income status; receipt of secondary capital accounts by low-income designated credit unions.

* * * * *

(b) * * *

(7) Funds deposited into the secondary capital account, including interest accrued and paid into the secondary capital account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings (*i.e.*, reserves and undivided earnings exclusive of allowance accounts for loan losses), and to the extent funds are so used, the credit union shall under no circumstances restore or replenish the account. The

credit union may, in lieu of paying interest into the secondary capital account, pay interest accrued on the secondary capital account directly to the investor or into a separate account from which the secondary capital investor may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time the losses are realized.

* * * * *

3. The Appendix to § 701.34 is amended by revising the second paragraph of the next to last bulleted section and adding a third paragraph to that section to read as follows:

Appendix to § 701.34

* * * * *

The funds committed to the secondary capital account and any interest paid into the account may be used by _____ (name of credit union) to cover any and all operating losses that exceed the credit union's reserves and undivided earnings exclusive of allowance accounts for loan losses, and in the event the funds are so used _____ (name of credit union) will under no circumstances restore or replenish those funds to _____ (name of institutional investor).

By initialing below, _____ (name of credit union) _____ and (name of institutional investor) agree that accrued interest will be:

_____ paid into and become part of the secondary capital account;
_____ paid directly to the investor;
_____ paid into a separate account from which the investor may make withdrawals; or
_____ any combination of the above provided the details are specified and agreed to in writing.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–05–AD; Amendment 39–11428; AD 99–24–04 C1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88