Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Hawaiian Papaya Regulation 13, Amdt. 2]

Papayas Grown in Hawaii; Grade Requirement Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Further amendment of interim final rule with request for comments.

SUMMARY: This amendment establishes grade requirements for intrastate shipments of Hawaiian papayas. Under the current regulation only papayas shipped to points outside of Hawaii are covered. The minimum grade established for fresh papaya shipments is Hawaii No. 1. The amendment is necessary to promote orderly marketing in the interest of producers and consumers.

DATES: *Effective date:* October 17, 1984. *Comments due:* November 16, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Willian J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This amended rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This amended rule is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Hawaiian Papaya Regulation 13, which became effective July 1, 1984, established grade requirements for export shipments of papayas at Hawaii No. 1. Interim final amendment 1 to Papaya Regulation 13, which became effective September 21, 1984, with a 30-day comment period, increased the tolerance for immature fruit in such shipments from 3 percent to 5 percent.

The export market is the principal outlet for Hawaiian papayas. Smaller quantities are sold locally in fresh form. As indicated, Hawaiian Papaya Regulation 13 applies only to export shipments of Hawaiian papayas. The committee reports that since that regulation became effective the local markets have become a diversion outlet for substantial quantities of lesser quality fruit with poor retail acceptance including substandard payayas culled out when fruit is packed for export. The availability of such fruit in the market place is having a price-depressing effect on sales of better quality fruit resulting in low returns to producers. Therefore, the Papaya Administrative Committee recommended that fresh papayas shipped to markets within Hawaii be required to meet the same grade requirements as those currently in effect for shipments to markets outside the State. The committee reports that ample supplies of papayas meeting the requirement of Hawaii No. 1 are available to satisfy fresh demand in both export and local markets. Hawaiian papaya cumulative fresh production during the January–September period has amounted to 49,260,000 pounds in 1984, compared with 30,611,000 in 1983. Papayas not meeting this minimum grade requirement may be utilized in processed products, such as puree.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this amended rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between September 21, 1984, the date when information became available upon which this amended rule is based, and the effective date necessary to effectuate the declared policy of the act. The committee recommended that this amended rule become effective as soon as possible, due to the marketing situation confronting the Hawaiian papaya industry. Shipments of Hawaiian papayas are currently in progress, and papaya handlers have been apprised of the provisions and effective date of the amendment. The amended rule provides a 30-day comment period. All comments received will be considered prior to finalization of this amended rule. It is found that this amended rule will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 928

Marketing agreements and orders, Papayas, Hawaii.

PART 928—[AMENDED]

Therefore, § 928.313 (49 FR 24109; 38094) is amended by revising paragraph (a) to read as follows:

§ 928.313 Hawaiian Papaya Regulation 13, Amendment 2.

(a) On and after October 17, 1984, no handler shall ship any container of papayas to any destination (except immature papayas handled pursuant to § 928.152) unless such papayas grade at least Hawaii No. 1: *Provided,* That not more than 5 percent shall be immature fruit: *Provided further,* That the weight requirements specified in this grade shall not apply to such shipments.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 15, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–27579 Filed 10–16–84; 8:45 am]
BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Official Staff Commentary Revisions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: The Board is publishing in final form changes to the official staff commentary to Regulation Z (Truth in Lending), 12 CFR Part 226, that address the disclosure of fees for the use of automated teller machines. The Board is not adopting another proposed change to the official staff commentary that addressed the scope of the securities transaction exemption contained in § 226.3(d) of Regulation Z. The commentary applies and interprets the requirements of Regulation Z with regard to consumer credit transactions and is a substitute for individual staff interpretations of the regulation.

EFFECTIVE DATE: October 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ruth R. Amberg and Gerald P. Hurst, Senior Attorneys, and Richard S. Garabedian, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667.

SUPPLEMENTARY INFORMATION:

1. General

Effective October 13, 1981, an official staff commentary was published to interpret Regulation Z (12 CFR Part 226). The commentary is designed to provide guidance to creditors in applying the regulation to specific transactions and is updated periodically to address significant questions.

On December 6, 1983, the Board proposed to add a new comment 4(b)(2)-2 regarding the disclosure of fees in interchange or shared systems, and an additional example to comment 6(b)-1 (48 FR 54642). Final action on these proposals is being taken at this time. Although creditors are free to rely on the provisions as of the effective date, and are protected if they do so, they need not follow the revisions until October 1, 1985.

In addition, on January 18, 1984, the Board published a proposed change to comment 3(d)-1 of the official staff commentary that would have specifically addressed the application of the securities transaction exemption in § 226.3(d) of Regulation Z to margin credit transactions in consumer asset management accounts (49 FR 2211). These accounts combine transaction and investment features and are offered by brokerage and investment firms. The accounts offer the consumer the capability to place assets (for example, cash and securities) in one account for the purpose of engaging in consumer transactions, investing excess cash balances (in a money market mutual fund, for example), and buying and selling securities. Margin credit is extended by the broker if the uninvested free credit balances and the redemption of money market shares are insufficient to pay for the transaction. After further analysis of the proposal and of the comments received, the staff believes that Regulation Z should not be interpreted to apply to these margin credit transactions. The proposal is therefore not being adopted.

2. Commentary Revisions

Following is a brief description of the revisions to the commentary regarding the disclosure of fees for using an automated teller machine (ATM) to obtain a cash advance.

Subpart A—General

Section 226.4—Finance charge.

4(a) Definition.

Comment 4(a)-5 is added to provide that certain charges imposed on cardholders by card issuers for using an ATM to obtain a cash advance are not finance charges. The final provision has been substantially simplified from the proposal in response to operational and other concerns raised by the commenters, and has been relocated from the commentary on § 226.4(b) to the commentary on § 226.4(a).

The final comment has been revised from the proposal to apply to charges imposed by card issuers on cardholders for using an ATM to obtain a cash advance in a proprietary system, as well as to charges in interchange or shared systems. A charge imposed on the cardholder by the card issuer for obtaining a cash advance at an ATM is not a finance charge to the extent that the charge does not exceed the charge imposed by the card issuer for cash withdrawals from consumer asset accounts, such as checking or savings accounts, at the ATM.

Subpart B—Open-End Credit

Section 226.6—Initial disclosure statement.

6(b) Other charges.

Comment 6(b)-1 is revised by adding an example to clarify that the charges described in comment 4(a)-5 that are not finance charges must be disclosed as "other charges" under §§ 226.6(b). Comment 6(b)-2 is also revised by adding an example to clarify that the card issuer has no disclosure responsibilities on the initial disclosure statement for certain charges that might be imposed on the cardholder by other institutions for the use of their ATMs.

Section 226.7—Periodic statement.

7(b) Identification of transactions.

New comment 7(b)-2 is added for guidance on how charges imposed by terminal-operating institutions other than the card issuer should be disclosed on the card issuer's periodic statement.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

PART 226—[AMENDED]

(3) *Text of revisions.* The revisions to the commentary (Supplement I to Part 226) read as follows:

Subpart A—General

* * * * *

Section 226.4—Finance charge.

4(a) Definition.

* * * * *

5. *Treatment of fees for use of automated teller machines.* Any charge imposed on a cardholder by a card issuer for the use of an automated teller machine (ATM) to obtain a cash advance (whether in a proprietary, shared, interchange, or other system) is not a finance charge to the extent that it does not exceed the charge imposed by the card issuer on its cardholders for using the ATM to withdraw cash from a consumer asset account, such as a checking or savings account. (See the commentary to § 226.6(b).)

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Subpart B—Open-End Credit

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Section 226.6—Initial disclosure statement.

* * * * *

6(b) Other charges.

1. *General; examples of other charges.* Under section 226.6(b), significant charges related to the plan (that are not finance charges) must also be disclosed. For example: * * *

- Automated teller machine (ATM) charges described in comment 4(a)-5 that are not finance charges.

2. *Exclusions.* The following are examples of charges that are not "other charges": * * *

- Charges imposed on a cardholder by an institution other than the card issuer for the use of the other institution's ATM in a

shared or interchange system. (See also comment 7(b)–2.)

* * * * *

Section 226.7—Periodic statement.

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7(b) Identification of transactions.

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2. *Automated teller machine (ATM) charges imposed by other institutions in shared or interchange systems.* A charge imposed on the cardholder by an institution other than the card issuer for the use of the other institution's ATM in a shared or interchange system and included by the terminal-operating institution in the amount of the transaction need not be separately disclosed on the periodic statement.

* * * * *

Board of Governors of the Federal Reserve System, October 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–27348 Filed 10–16–84; 8:45 am]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 741 and 746

Capitalization of the National Credit Union Share Insurance Fund

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) has adopted final rules implementing Title VIII of Pub. L. 98–369, which provides for the capitalization of the National Credit Union Share Insurance Fund (Fund) through the maintenance of a deposit by each insured credit union in an amount equalling one percent of its insured shares. Insured credit unions will fund their one percent deposit during January 1985. Based upon the present level of the Fund, the Board has determined that this will enable a waiver of the 1985 share insurance premium and a distribution from current Fund equity. The net result is that each insured credit union will record its full one percent deposit asset in January 1985 while making a real transfer to the Fund of only .85–.90% of the credit union's total insured shares. Revised form NCUA 1308 will be provided to all insured credit unions in late 1984 for use in making the necessary calculations. This form will contain a preprinted statement of each credit union's pro rata share of the equity distribution. Also, Central Liquidity Facility loans and other assistance will be available on a case-by-case basis for those few insured credit unions that have a demonstrated liquidity problem or other hardship in funding their deposit.

EFFECTIVE DATE: December 1, 1984.

FOR FURTHER INFORMATION CONTACT: Charles Filson, Director, Office of Programs, or Robert Fenner, Director, Department of Legal Services, National Credit Union Administration, 1776 G Street NW, Washington, D.C., 20456. Telephone number: (202) 357–1132 (Mr. Filson), (202) 357–1030 (Mr. Fenner).

SUPPLEMENTARY INFORMATION:

Background

Recently enacted legislation, Title VIII of Pub. L. 98–369, provides for a strengthening of the National Credit Union Share Insurance Fund through the placement of a deposit with the Fund by each insured credit union in an amount equalling one percent of the credit union's insured shares. Essential elements of the legislation are as follows.

The legislation accomplishes the objective of a strong and viable Fund solely through the financial support of insured credit unions, i.e., through their one percent deposit. Once fully funded, the deposit of each credit union will be adjusted annually in accordance with changes in the credit union's insured shares.

The legislation establishes a new "normal operating level", or level of Fund equity to total insured shares, of 1.3%. Any funds in excess of that level must be distributed to insured credit unions at least annually. At this operating level, the Board projects that, in the absence of extraordinary expenses, the annual earnings on Fund assets will be sufficient to meet the expenses of the Fund, and also to allow a waiver or rebate of each credit union's annual insurance premium as well as the declaration of a dividend on Fund equity.

An insured credit union's deposit is returnable in the event the credit union's insurance coverage is terminated, it converts to coverage from another source, or the operations of the Fund are transferred from the NCUA Board. In view of both the returnable nature of the deposit and the expectation of an annual dividend, the deposit will be carried as an asset on the books of the credit union. This accounting treatment has been recommended as being in accordance with generally accepted accounting principles (GAAP) by the Fund's auditors, Ernst & Whinney.

Finally, concerning the legislation, it should be noted that both the amount of each credit union's one percent deposit and each credit union's annual insurance premium (one twelfth of one percent) will be determined as a percentage of the credit union's total *insured* shares. This is in contrast to the previous annual premium computation which was based on the total amount of a credit union's accounts, including amounts in excess of the insurance coverage limits per accountholder. Thus, the new method is more equitable in that a credit union contributes to the Fund only in relationship to the amount of its actual insurance protection.

Proposed Rulemaking

On August, 1, 1984, the Board issued a notice of proposed rulemaking (49 FR 30740) requesting comment on the issues relevant to implementation of the legislation. The notice identified five broad areas for comment. In order to adopt final rules in time for implementation of the legislation during the transition from the 1984 to the 1985 insurance year, the Board established a comment deadline of September 7, 1984. 201 comment letters were received in response to the proposal. After thorough consideration of the comments and further review, the Board has adopted final rules. A discussion of the Board's decision on each of the major issues and an explanation of the final rules follow.

Issues

The first major issue identified in the notice of proposed rulemaking related to funding of the one percent deposit. The Board proposed to incorporate both the initial funding of the deposit and subsequent adjustments into the present insurance cycle, pursuant to which statements are forwarded to insured credit unions in December of each year with payments due the following January. The commenters were virtually unanimous in their agreement with this proposal, and the deposit and annual adjustments will accordingly be incorporated into the present cycle.

Also related to funding of the deposit, the Board requested comment on whether to fund the full one percent in January of 1985 or, in the alternative, to provide for a phase-in by insured credit unions. In this connection, Section 202(c)(1)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1782(c)(1)(A)(ii)), as amended by Pub. L. 98–369, provides that "[t]he Board may, in its discretion, authorize insured credit unions to initially fund [the] deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions." Thus, a phase-in over a period longer than one year is permitted by law only if necessary to avoid adverse effects on insured credit unions, and even then the

matter is committed to Board discretion. The notice of proposed rulemaking expressed a preference for immediate funding, based on NCUA staff's analysis that it would be the most economical method, but requested comment on the preferred approach. In response, 80 percent of the commenters either favored or did not oppose immediate funding. In addition, the Board received letters from only 20 credit unions indicating a financial difficulty in funding their deposit immediately. Further, on a system-wide basis, credit unions are extremely liquid, with over $38 billion in investments of which over $30 billion mature within 12 months. A transfer of less than $800 million of these funds will be required to effect immediate funding. An across the board three year phase-in (the method most often recommended by those favoring a phase-in) would, on the other hand, result in a direct expense to credit unions of $180–$280 million, because of the inability of the Fund to waive premiums or pay a dividend. Thus a demonstration of adverse effects on the condition of insured credit unions appears remote, and the Board has determined to call for full funding in January of 1985. NCUA will stand ready, on a case-by-case basis, to assist, through Central Liquidity Facility loans or otherwise, those credit unions that demonstrate a hardship in meeting the immediate funding requirements.

A limited number of commenters suggested that the Board accomplish a phase-in of the one percent deposit by establishing a lower normal operating level for the Fund in each of the first two years (e.g., .7 percent and 1 percent). It was suggested that this could be done pursuant to Section 202 (h)(2) of the Federal Credit Union Act as amended (12 U.S.C. 1782 (h)(2)), which defines the "normal operating level" of the Fund as 1.3 percent of all insured shares (i.e., the one percent deposit plus .3 percent existing equity) or "such lower level as the Board may determine." These commenters felt that such a course would allow a phase-in for *all* insured credit unions and yet prove less expensive to credit unions than immediate funding because it would allow for waivers of premiums in the first two years. (Section 202(c)(3) of the Act (12 U.S.C. 1782(c)(3)) allows such waivers when the Fund exceeds the normal operating level.) In the Board's view, regardless of how it is characterized, such a course of action would, as a matter of both law and fact, constitute a three year phase-in and would circumvent the requirement of Section 202(c)(1)(A)(ii) that a phase-in be authorized only if the Board finds it "necessary [in order] to avoid adverse effects on the condition of insured credit unions." Thus, the proposal would violate the spirit if not the letter of the law, and it is accordingly rejected.

As previously indicated, the Board has determined that immediate funding will enable it to waive the 1985 insurance premium. In addition, the Board has decided to declare a return of existing fund equity in an amount equalling .113 percent of each credit union's year-end 1983 insured accounts, or in other words 10–15 percent of the credit union's one percent deposit obligation. (The exact percentage will depend upon the credit union's share growth during 1984, since the amount of the 1 percent deposit is based upon year-end 1984 shares.) As a result, insured credit unions will record their 1 percent deposit asset in January 1985, while transferring to NCUA a net amount equalling only .85–.90 percent of the credit union's total insured shares.

The distribution of Fund equity was determined based on the year-end 1983 total of insured accounts in all federally insured credit unions. Based on NCUA's projection of total share growth, the equity level as of January 1985 will be approximately 1.24% of year-end 1984 total insured shares. During 1985, the level will rise above 1.3% of the year-end 1984 figure, as a result of earnings on Fund assets. The alternative would be to begin 1985 at 1.3% of the projected 1984 total insured shares and constantly operate above that level. The Board believes the course it has selected is more consistent with the statutory intent that the Fund not operate above the normal operating level.

Revised NCUA Form 1308 will be used by insured credit unions to make the necessary calculations. The form will be forwarded to each insured credit union with appropriate instructions in late 1984. As previously indicated, the form will contain a preprinted statement of each credit union's pro rata share of equity distribution. Each credit union will transfer to the Fund a net amount equalling its one percent deposit minus the equity distribution. Credit unions will be required to return the completed form and net amount due by January 20, 1985. The Form 1308 will be forwarded at the same time as the NCUA Financial and Statistical Report (Form 5300), thus facilitating both a single mailing by NCUA and a single return mailing by each credit union.

The final issue raised in the notice of proposed rulemaking relative to funding of the deposit was that of the normal operating level. The Board proposed to set the level initially at the statutory figure of 1.3%. With the exception of those who suggested phasing in to 1.3% over three years as a device for phasing in the 1% deposit, most commenters either agreed with the Board's proposal or expressed no preference. The final rule establishes the normal operating level at 1.3%. The Board believes that this is the level that makes the fund as safe as possible, as soon as possible. The Board is of the view that the authority to establish a lower operating level should be used only if experience over time demonstrates that a lower level would be advantageous. This is an area where the Board would not envision acting precipitously, but rather only after full communication with insured credit unions, the Congress and other interested parties.

The second broad issue raised in the notice of proposed rulemaking concerned return of the one percent deposit to a credit union that is no longer insured by the Fund. In this connection, Section 202(c)(1)(B) of the Act (12 U.S.C. 1782(c)(1)(B)), as amended, provides that the deposit shall be returned "in accordance with procedures and valuation methods determined by the Board" in the event that a credit union's insurance coverage is terminated, the credit union converts to other coverage, or the operations of the Fund are transferred from the Board. The Board proposed simply to return the full amount of the deposit immediately after the Fund no longer has an insurance liability to the credit union. In the case of conversion by a state chartered credit union to other insurance coverage, this would be immediately upon conversion. In the case of a change to uninsured status, the Fund's liability would continue for one year and the deposit would be returned at the end of that period. The commenters generally agreed with this proposal, and it is reflected in the final rule (see section 741.5(i)). Further, while the Act would allow the Board to delay the return of the deposit by up to one year after the termination of any insurance liability, the final rule provides that this will be done only if the Board determines that immediate payment would jeopardize the financial condition of the Fund. Additionally, the final rule provides that a credit union that receives a return of its deposit during an insurance cycle will have the option of leaving a nominal sum on deposit in order to qualify for a prorated share of the next declaration of earnings.

The third broad issue raised in the proposal concerns use of the deposits by

the Fund. Under normal circumstances, the deposit fund will be invested in United States Government-backed securities along with other Fund assets. Section 202(c)(1)(B)(iv) of the Act (12 U.S.C. 1782(c)(1)(B)(iv)), as amended, provides, however, that the Fund may utilize the deposit assets if necessary to meet its expenses, in which case the amount used must be expensed and replenished by insured credit unions "in accordance with procedures established by the Board." The notice of proposed rulemaking indicated the Board's intent not to develop expense and replenishment procedures at this time. A number of commenters disagreed, suggesting that procedures should be developed now and stand available in the event that unanticipated circumstances required use of the deposit funds. The Board continues to be of the view, however, that both the extreme unlikelihood of utilization and expense of deposit funds, and the need to act quickly in implementing other aspects of the legislation, weigh against developing specific procedures at this time. The Board does wish to reaffirm that the deposit assets would be used to meet fund expenses only in the extremely unlikely event of a major catastrophe that required utilization of all the Fund's investment income, all premium income, and the entire .3% nondeposit equity, and that expense and replenishment procedures would be developed at such time with the full participation of insured credit unions.

The fourth broad issue raised in the notice of proposed rulemaking concerned the insurance agreement that NCUA has entered into with each federally insured state chartered credit union. It was noted in the proposal that it will be necessary to modify the agreement to reflect the obligations of the Board and the credit unions concerning the one percent deposit. Comment was requested on whether and to what extent this opportunity should be used to revise and improve the overall agreement. Based upon the comments and further NCUA review, a revised agreement has been developed. With the exception of the addition of provisions concerning the one percent deposit, the changes are nonsubstantive. First, certain provisions of the previous agreement have been shortened and consolidated, resulting in nine separate items of agreement rather than the previous twelve. Second, the agreement has been revised to clarify existing requirements of Title I of the Federal Credit Union Act and provisions of Part 741 of NCUA's regulations with respect to surety bond coverage and reserve requirements. A copy of the new insurance agreement will be forwarded to all affected credit unions in the near future with a more complete explanation and instructions.

The final issue raised in the notice of proposed rulemaking concerned the requirement that the Board report annually to the Congress on the operating level of the Fund. The Board proposed to do this on a fiscal year basis, to coincide with the general operations of NCUA and the annual audits of the Fund. Those few commenters who addressed this issue generally agreed, and the Board will proceed as proposed.

The Board believes the annual audit should be conducted by an independent private CPA firm and should be prepared in accordance with generally accepted accounting principles (GAAP), applied on a consistent basis. GAAP is a set of objective standards for accounting policies and disclosures promulgated by the AICPA, the Financial Accounting Standards, Board, and other authoritative bodies. Such a report addresses any deviations from GAAP or inconsistencies in its application. In addition, GAAP requires disclosure of significant accounting policies and certain other disclosures. The presentation of financial statements in accordance with GAAP thus provides the reader with objective standards by which to evaluate the Fund's financial position and results of operation, as well as a basis for comparability to financial statements of other organizations.

Explanation of Final Rule

Three sections of NCUA's insurance regulations are being revised at this time.

First, § 741.5 (12 CFR 741.5), previously entitled "Insurance Premium Statements" has been rewritten to incorporate the capitalization legislation and is now entitled "Insurance Premium and One Percent Deposit." The new § 741.5 is comprised of nine subsections. Paragraph (a) is entitled Scope and explains that the section implements the requirements of the Federal Credit Union Act concerning maintenance of the one percent deposit and payment of annual premiums. Paragraph (b) defines the key terms used in the legislation and regulations, including "insured shares" and "normal operating level." Paragraph (c) sets forth the requirement that each insured credit union maintain its one percent deposit, and paragraph (d) states the requirement that each credit union pay its annual insurance premium. Paragraph (e) states the Board's policy on periodic adjustments (e.g., premium waivers, distributions of equity) to ensure that the Fund does not exceed its normal operating level. Paragraph (f) establishes NCUA Form 1308 as the prescribed form for computation of and adjustment of the deposit and any premium payment. Paragraphs (g) and (h) address the treatment of credit unions that obtain insurance from the Fund during an insurance year. Specifically, paragraph (g) addresses new charters and states NCUA's policy that a newly chartered credit union will not be required to pay its initial premium or fund its deposit until January of the following insurance year. Paragraph (h) provides that an existing credit union which converts to insurance coverage with the Fund during an insurance year will be required to immediately fund its deposit and pay a prorated share of any premium assessed for that year (i.e., prorated to reflect the remaining number of months in the year), based on its total insured shares as of the month-end prior to conversion. Paragraph (i) sets forth the Board's decision concerning return of the deposit to credit unions that leave the Fund, as previously described.

Section 741.7 of the regulations (12 CFR 741.7) sets forth the requirement that each federally insured credit union file a semiannual financial and statistical report on NCUA Form 5300. The Form 5300 has been revised to provide for the computation of total "insured shares" that is now necessary in connection with determining the credit union's one percent deposit (or annual ajdustment) and premium on Form 1308. As previously indicated, the year-end 5300 will be forwarded with the 1308, thus allowing both a single mailing by NCUA to each credit union and a single return mailing by the credit union. Section 741.7 has been revised to clarify the timing of the 5300 and to delete reference to certain obsolete supplementary forms.

Finally, Part 746 of the regulations (12 CFR Part 746), which sets forth premium rebate procedures for federally insured credit unions that are closed for liquidation, has been repealed in its entirety. This is a technical change to correspond to the repeal in 1982 (by Pub. L. 97–320) of the statutory provisions concerning such rebates.

Effective Date

The revised rules have been issued with a December 1, 1984, effective date. Thus, the rules will be in full force and effect for implementation of the legislation during the transition to the new insurance year.

Regulatory Flexibility Act

The NCUA Board hereby certifies that these final rules will not have a significant economic impact on a substantial number of small credit unions, because the rules and the legislation they implement will reduce the cost of insurance coverage to all federally insured credit unions.

List of Subjects

12 CFR Part 741

Credit unions, insurance.

12 CFR Part 746

Credit unions, insurance rebates.

By the NCUA Board on the 9th day of October, 1984.

Rosemary Brady,

Secretary of the Board.

Accordingly, NCUA's rules and regulations are revised as follows:

PART 741—[AMENDED]

1. The authority for §§ 741.5 and 741.7 reads as follows:

(12 U.S.C. 202(c), Pub. L. 98–369, sec. 2803, July 18, 1984)

2. 12 CFR 741.5 is revised to read as follows:

§ 741.5 Insurance premium and one percent deposit.

(a) *Scope.* This section implements the requirements of Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) providing for capitalization of the National Credit Union Share Insurance Fund through the maintenance of a deposit by each insured credit union in an amount equalling one percent of its insured shares and payment of an annual insurance premium.

(b) *Definitions.* For purposes of this section:

(1) "Insurance year" means a calendar year period, from January 1 through December 31;

(2) "Insured shares" means the total amount of a credit union's share, share draft and share certificate accounts authorized to be issued to members, other credit unions or public units, exclusive of amounts in excess of insurance coverage limits as provided in 12 CFR Part 745, and, in the case of a federally insured state chartered credit union, shall include deposit accounts of members, other credit unions and public units if authorized by state law;

(3) "Fund" means the National Credit Union Share Insurance Fund; and

(4) "Normal operating level" means a total value of Fund equity equalling 1.3 percent of the aggregate of all insured shares in insured credit unions.

(c) *One Percent Deposit.* Each insured credit union shall maintain with the Fund during each insurance year a deposit in an amount equalling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on or before January 31, or as otherwise directed by the Board.

(d) *Premium.* Each insured credit union shall pay to the Fund, on or before January 31 of each insurance year or as otherwise directed by the Board, an insurance premium for that insurance year in an amount equalling one-twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of Fund Equity.* When the Fund exceeds its normal operating level, the Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the Fund to its normal operating level. Such adjustment will be in the form determined by the Board and may include a waiver of insurance premiums, premium rebates and/or distributions from Fund equity.

(f) *Form 1308.* A certified copy of NCUA Form 1308 will be completed by each insured credit union in connection with its computation and funding of its annual premium payment and any change in its one percent deposit. The Form 1308 provides for any adjustments declared by the Board, resulting in a single net transfer of funds between the credit union and NCUA. Copies of Form 1308 may be obtained from any NCUA office.

(g) *New Charters.* A newly chartered credit union that obtains share insurance coverage from the Fund during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on or before January 31 of the following insurance year, but shall not participate in any distribution from Fund equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to Federal Insurance.* An existing credit union that converts to insurance coverage with the Fund during an insurance year shall immediately fund its one percent deposit based on the total of its insured shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from Fund equity declared subsequent to the credit union's conversion.

(i) *Return of Deposit.* Any insolvent credit union that is closed for involuntary liquidation will not be entitled to a return of its deposit. Any other credit union whose insurance coverage with the Fund terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the Fund. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the Fund until the next distribution from Fund equity and will thus qualify for a prorated share of the distribution.

3. 12 CFR 741.7 is revised to read as follows:

§ 741.7 Financial and statistical and other reports.

(a) Each operating insured credit union shall file with the National Credit Union Administration on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

PART 746—[REMOVED]

4. The authority for Part 746 reads as follows:

Authority: 12 U.S.C. 202(c), Pub. L. 97–320, sec. 529, Oct. 15, 1982.

5. 12 CFR Part 746 is removed.

[FR Doc. 84–27236 Filed 10–16–84; 8:45 am]

BILLING CODE 7535–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

Disclosure of Information and Privacy Act of 1974

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration hereby amends its regulations governing the disclosure of information. This procedural amendment permits disclosure of certain information to credit reporting agencies.

Historically, SBA has not reported information regarding commercial debts to reporting agencies. The amendment is necessary to provide notice of SBA's intention to implement OMB Bulletin No. 83-21 directing all Executive Departments and Establishments to report all non-tax commercial debts. This amendment also distinguishes SBA's reporting of consumer debts pursuant to the Debt Collection Act of 1982, and SBA's regulations implementing such Act, from such reporting of commercial debts.

DATES: This rule is effective October 17, 1984.

ADDRESS: Written comments should be addressed to C. Nicholas Kalcounos, Director, Freedom of Information/Privacy Acts Appellate Office, Small Business Administration, Office of Hearings and Appeals, 1441 L Street, NW., Washington, D.C., 20416.

FOR FURTHER INFORMATION CONTACT: C. Nicholas Kalcounos, (202) 653-6460.

SUPPLEMENTARY INFORMATION: As a result of the Debt Collection Act of 1982, a new emphasis in Federal Agencies has been placed on the provision of credit information to, and the acquisition of credit information from, credit reporting agencies. The Act specifically eliminates the previous Privacy Act impediments to credit reporting of consumer debts, but does not mention credit reporting of commercial debts. On July 2, 1984, 49 FR 27138, SBA published a final rule concerning debt collection. That rule, appearing at 13 CFR Part 140, sets forth proposed procedures for (1) disclosing information regarding individual debtors to consumer reporting agencies, (2) offsetting the Federal pay of current and former SBA employees who are indebted to the United States, and (3) withholding money payable by the United States to, or held by the United States on behalf of, a person to satisfy a debt owed to SBA by such person. Such Part also permits SBA to withhold money due an individual where such individual is indebted to the United States. The regulation, like the Debt Collection Act, speaks only to credit bureau reporting of consumer debt, and is silent as to the reporting of commercial debt.

By Bulletin No. 83-21, the Office of Management and Budget directed all Executive Departments and Establishments to, among other things, report "all non-tax commercial debts and all delinquent, non-tax consumer debts to credit reporting agencies." These reportings were designed to increase the efficiency of government-wide efforts to collect debts owed the United States. This amendment provides notice of SBA's intention to implement this directive by reporting all commercial debts, regardless of status, to credit reporting agencies (credit bureaus), and clarifies SBA's procedural regulations regarding information disclosure to accomplish that reporting.

The reporting of commercial debts will not be conducted pursuant to the Debt Collection Act of 1982, nor pursuant to SBA's regulations of 13 CFR Part 140 implementing such Act. Written notice of SBA's intention to disclose commercial debts to credit bureaus is not, therefore, required.

This amendment clarifies SBA's intention to disclose information regarding commercial debts only to credit bureaus. The information referred to in § 102.3(b)(2) (v) and (vi) of these regulations will remain exempt from disclosure to all other institutions and to the general public.

SBA certifies that this rule does not constitute a major rule for the purpose of Executive Order 12291. It is procedural in nature and in and of itself does not impose costs upon the businesses which might be affected by it. In addition, since this rule is procedural in nature, it does not constitute a rule which is covered by the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., since it does not have a significant economic impact on a substantial number of small entities. SBA certifies that this rulemaking contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 102

Freedom of Information, Privacy.

Accordingly pursuant to section 5(b)(4) of the Small Business Act (15 U.S.C. 634(b)(4), Part 102 of 13 CFR is amended to read as follows:

PART 102—DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974

Subpart A—Disclosure of Information

Section 102.3(b)(2) (v) and (vi) are revised to read as follows:

§ 102.3 Information and records available to the public and exempt from disclosure.

* * * * *

(b) *Information and records relating to SBA assistance programs.* (1) * * *

(2) Information exempt from disclosure to the public includes:

* * * * *

(v) Information concerning losses, delinquencies and defaults in individual cases, except that such information may be reported to credit reporting agencies pursuant to contract.

(vi) Names of participating lending institutions without their consent, except that the names and/or the Polk Identification Numbers for such institutions may be reported to credit reporting agencies pursuant to contract.

* * * * *

Dated: October 9, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27279 Filed 10-16-84; 8:45 am]

BILLING CODE 8025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 234

[Economic Regulations; Removal of Part 234; Docket 27891; Reg. ER-1393]

Flight Schedules of Certificated Air Carriers; Realistic Scheduling Required

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB hereby eliminates its rules concerning the filing or publishing of unrealistic flight schedules. In addition, reporting requirement concerning airborne times, which has been waived since 1981, is also eliminated. In place of the rule, the CAB is concurrently adopting a policy statement that states that unrealistic scheduling will be considered an unfair and deceptive practice and an unfair method of competition under section 411 of the Federal Aviation Act. This action is taken at the Board's initative.

DATES: *Adopted:* October 2, 1984. *Effective:* November 16, 1984.

FOR FURTHER INFORMATION CONTACT: Alexander J. Millard, Office of the General Counsel, (202) 673-6011, or Joanne Petrie, Office of the General Counsel, (202) 673-5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: By EDR-301B/PSDR-79, 48 FR 29879, June 29, 1983, the Board proposed to replace Part 234, which governs the scheduling of flights by certificated air carriers, with a policy statement that the Board finds unrealistic scheduling to be an unfair and deceptive practice and an unfair method of competition under section 411 of the Federal Aviation Act. Currently, Part 234 prohibits certificated air carriers performing scheduled passenger service in interstate air transportation from filing or publishing unrealistic flight schedules. Part 234 requires these