

pass any motion or approve any committee action.

(b) The quorum and voting requirements of paragraph (a) of this section shall not apply to the designation of temporary alternates as provided in § 946.23.

(c) The committee may provide for meetings by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: Provided, That if any assembled meeting is held, all votes shall be cast in person.

7. Section 946.25 is amended by:

A. Revising paragraph (a).

B. Revising paragraph (c).

The revisions read as follows:

**§ 946.25 Selection.**

(a) Persons selected as committee members or alternates to represent producers shall be individuals who are producers of fresh potatoes in the respective district for which selected, or officers or employees of a corporate producer in such district. Such individuals must also have produced potatoes for the fresh market for at least three out of the five years prior to nomination.

(b) \* \* \*

(c) The Secretary shall select committee membership so that, during each fiscal period, each district, as designated in § 946.31, will be represented as follows:

(1) District No. 1—Three producer members and one handler member;

(2) District No. 2—Two producer members and one handler member;

(3) District No. 3—Two producer members and one handler member;

(4) District No. 4—Two producer members and one handler member;

(5) District No. 5—One producer member and one handler member.

8. Revise § 946.26 to read as follows:

**§ 946.26 Acceptance.**

Any person nominated to serve as a member or alternate member of the committee shall, prior to selection by USDA, qualify by filing a written background and acceptance statement indicating such person's willingness to serve in the position for which nominated.

9. Amend § 946.27 by revising paragraph (a) to read as follows:

**§ 946.27 Term of office.**

(a) The term of office of each member and alternate member of the committee shall be for 3 years beginning July 1 and continuing until their successors are selected and have qualified. The terms of office of members and alternates shall

be determined so that about one-third of the total committee membership is selected each year. Committee members shall not serve more than 2 consecutive terms. Members who have served for 2 consecutive terms will be ineligible to serve as a member for 1 year.

\* \* \* \* \*

10. Revise § 946.31 to read as follows:

**§ 946.31 Districts.**

For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby established:

(a) District No. 1—The counties of Ferry, Stevens, Pend Oreille, Spokane, Whitman, and Lincoln, plus the East Irrigation District of the Columbia Basin Project, plus the area of Grant County not included in either the Quincy or South Irrigation Districts which lies east of township vertical line R27E, plus the area of Adams County not included in either of the South or Quincy Irrigation Districts.

(b) District No. 2—The counties of Kittitas, Douglas, Chelan, and Okanogan, plus the Quincy Irrigation District of the Columbia Basin Project, plus the area of Grant County not included in the East or South Irrigation Districts which lies west of township line R28E.

(c) District No. 3—The counties of Benton, Klickitat, and Yakima.

(d) District No. 4—The counties of Walla Walla, Columbia, Garfield, and Asotin, plus the South Irrigation District of the Columbia Basin Project, plus the area of Franklin County not included in the South District.

(e) District No. 5—All of the remaining counties in the State of Washington not included in Districts No. 1, 2, 3, and 4 of this section.

11. Amend § 946.32 by revising paragraph (a) to read as follows:

**§ 946.32 Nomination.**

\* \* \* \* \*

(a) Nominations for Committee members and alternate members shall be made at a meeting or meetings of producers held by the Committee or at other industry meetings or events not later than May 1 of each year; or the Committee may conduct nominations by mail not later than May 1 of each year in a manner recommended by the Committee and approved by the Secretary.

\* \* \* \* \*

12. Amend § 946.52 by adding a new paragraph (a)(5) to read as follows:

**§ 946.52 Issuance of regulations.**

(a) \* \* \*

(5) To regulate the size, capacity, weight, dimensions, pack, and marking or labeling of the container, or containers, which may be used in the packing or handling of potatoes, or both.

\* \* \* \* \*

13. In § 946.63, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

**§ 946.63 Termination.**

\* \* \* \* \*

(d) The Secretary shall conduct a referendum six years after the effective date of this paragraph and every sixth year thereafter to ascertain whether producers favor continuance of this part.

\* \* \* \* \*

Dated: November 19, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04-26124 Filed 11-24-04; 8:45 am]

BILLING CODE 3410-02-P

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 701**

**Loans to Members and Lines of Credit to Members**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** NCUA is proposing to amend three subsections of its lending rule to incorporate legal interpretations previously issued by its Office of General Counsel (OGC) regarding permissible maturities for certain types of loans and the effect of partial government guarantees. The proposal clarifies: The conditions for applying the lending rule to loans secured by mobile homes, recreational vehicles, house trailers and boats; that loans secured by manufactured homes may be considered residential real estate loans; and that loans with a partial government guarantee, insurance, or advance commitment to purchase a portion of a loan fall within the rule. The NCUA Board is proposing these changes because it believes it is helpful to federal credit unions (FCUs) and others that may consult NCUA regulations to incorporate these interpretations as part of the rule itself rather than having them stated separately in OGC legal opinions.

**DATES:** The NCUA must receive comments on or before January 25, 2005.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- NCUA Web site: [http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.

- E-mail: Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on Proposed Rule 701.14, Change in Official in Newly Chartered or Troubled Credit Unions” in the e-mail subject line.

- Fax: (703) 518-6319. Use the subject line described above for e-mail.

- Mail: Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- Hand Delivery/Courier: Same as mail address.

**FOR FURTHER INFORMATION CONTACT:**

Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

**SUPPLEMENTARY INFORMATION:**

**Background**

The NCUA Board (the Board) has a policy of continually reviewing NCUA regulations to “update, clarify and simplify existing regulations and eliminate unnecessary and redundant and unnecessary provisions.” NCUA Interpretive Ruling and Policy Statement (IRPS) 87-2, Developing and Reviewing Government Regulations. As a result of NCUA’s 2003 review, the Board determined that the rules on loan guarantees and loan maturities should be updated to reflect recent OGC opinions.

**Summary of Proposed Changes**

The Federal Credit Union Act (the FCU Act) generally limits an FCU’s authority on matters of loan maturity, rates of interest, security and prepayment penalties. 12 U.S.C. 1757(5). Where a loan is secured by a State or Federal Government insurance or guarantee or in the case of a State or Federal program providing an advance commitment to purchase the loan, the FCU Act provides relief from these limitations and permits an FCU to make the loan for the maturity and under the terms and conditions of the government program. 12 U.S.C. 1757(5)(A)(iii). The FCU Act does not specify the extent to which the government program must

guarantee or insure the loan, or the portion of the loan the program must commit to purchase. NCUA’s lending regulation mirrors this section of the FCU Act and adds that FCUs may make such loans at rates of interest provided in the government program. 12 CFR 701.21(e). These provisions have the effect of enabling FCUs to participate in government lending programs that might otherwise be out of reach because of the FCU Act’s general limitations.

OGC has issued legal opinions clarifying that the regulation applies whether the government program offers a full or partial guarantee, insurance, or commitment to purchase the loan. The proposed amendment clarifies that a partial government guarantee, insurance, or commitment to purchase a loan is sufficient to effect the application of the regulation. The Board believes that adding this clarification to the regulation will give full effect to the FCU Act and will benefit FCUs and their members by encouraging participation in government lending programs.

The FCU Act prohibits FCUs from granting loans with maturities greater than 12 years. 12 U.S.C. 1757(5). It permits longer maturities, however, for certain loans including those secured by residential real estate and mobile homes. 12 U.S.C. 1757(5)(A). As permitted under the FCU Act, the Board has promulgated rules allowing loan maturities of 20 years for mobile home loans and up to 40 years, or more with specific Board approval, on residential real estate loans. 12 CFR 701.21(f) and (g).

Neither the FCU Act nor the lending regulation defines what constitutes a mobile home. Previously OGC had narrowly interpreted the term to include only homes that met the standards established by an industry association to describe a manufactured home. More recently in legal opinion OGC 01-0262, dated June 4, 2001, OGC interpreted the term to include homes that qualify for the home mortgage interest deduction under the Internal Revenue Code (IRC), 26 U.S.C. 163(a), (h)(2)(D). The Internal Revenue Service describes three main features any first or second home must have to qualify for the deduction. The home securing the debt must be a house, condominium, cooperative, mobile home, house trailer or similar property that has sleeping, cooking and toilet facilities. In the above-referenced opinion, and in a subsequent opinion dated July 3, 2001, OGC concluded that, if a loan for a house trailer, recreational vehicle (RV) or a boat is secured by a first lien and qualifies for the home mortgage interest deduction, then it is

appropriate to permit an FCU to consider it a mobile home loan with a maximum maturity of 20 years.

The Board believes it will be helpful to clarify the lending rule by incorporating this standard into the regulation. An FCU must still ensure that it complies with the other requirements of the rule, namely, that the home is owner-occupied and the loan is secured by a first lien. Of course, FCUs must also perform due diligence to ensure that loans are properly secured and safety and soundness concerns may dictate against extended maturities for any RV, trailer or boat loan with a short useful life.

A third issue OGC recently addressed involves whether a loan secured by manufactured housing should qualify for the longer maturities of residential real estate loans. Legal opinion OGC 03-0934, dated November 17, 2003. Previously OGC equated manufactured housing with mobile homes. Over the past several years, the manufactured housing industry has undergone significant changes. Enhancements to the quality and standards of manufactured housing, and the fact that manufactured housing is intended to be permanently affixed to the land, prompted OGC to conclude that loans for manufactured houses that are permanently affixed to the land and also meet all other regulatory requirements for residential real estate loans under 12 CFR 701.21(g) will qualify for the longer maturities. The manufactured housing must qualify as real property and be titled as real property under the laws of the state where it is located. The loan must have a first lien on the manufactured housing as required by § 701.21(g)(5). If the member-borrower leases rather than owns the land where the manufactured home is located then, to preserve the effectiveness of the FCU’s first lien position, the FCU and the land owner should have an agreement providing for cooperation in the event of default and foreclosure. Of course, as a matter of safety and soundness, the FCU should also ensure that, when the member-borrower leases the land where the manufactured housing is located, the lease is at least as long as the term of the loan.

**Regulatory Procedures**

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities. NCUA considers credit unions having less than ten million in assets to

be small for purposes of RFA. Interpretive Ruling and Policy Statement (IRPS) 87-2 as amended by IRPS 03-2. The proposal clarifies and expands the lending rules to incorporate recent OGC opinions. The NCUA has determined and certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

#### *Paperwork Reduction Act*

NCUA has determined that the proposed rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). NCUA currently has OMB clearance for § 701.21's collection requirements (OMB No. 3133-0139).

#### *Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on State and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The proposed rule applies only to federal credit unions. NCUA has determined that the proposed amendments will not have a substantial direct effect on the States, on the connection 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 proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

#### *The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

#### **Agency Regulatory Goal**

NCUA's goal is clear, understandable regulations that impose a minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

#### **List of Subjects in 12 CFR Part 701**

Credit unions, Loans.

By the National Credit Union Administration Board on November 18, 2004.

**Mary Rupp,**

*Secretary of the Board.*

Accordingly, the National Credit Union Administration proposes to amend 12 CFR part 701 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, 1789.

2. Amend § 701.21 by revising paragraphs (e), (f) and (g)(1) to read as follows:

#### **§ 701.21 Loans to members and lines of credit to members.**

\* \* \* \* \*

(e) *Insured, guaranteed and advance commitment loans.* A loan secured, in full or in part, by the insurance or guarantee of, or with an advance commitment to purchase the loan, in full or in part, by the Federal Government, a State Government or any agency of either, may be made for the maturity and under the terms and conditions, including rate of interest, specified in the law, regulations or program under which the insurance, guarantee or commitment is provided.

(f) *20-year loans.* (1) Notwithstanding the general 12-year maturity limit on loans to members, a federal credit union may make loans with maturities of up to 20 years in the case of:

(i) A loan to finance the purchase of a mobile home if the mobile home will be used as the member-borrower's residence and the loan is secured by a first lien on the mobile home, and the mobile home meets the requirements for the home mortgage interest deduction under the Internal Revenue Code;

(ii) A second mortgage loan (or a nonpurchase money first mortgage loan in the case of a residence on which there is no existing first mortgage) if the loan is secured by a residential dwelling which is the residence of the member-borrower; and

(iii) A loan to finance the repair, alteration, or improvement of a residential dwelling which is the residence of the member-borrower.

(2) For purposes of this paragraph (f), mobile home may include a recreational vehicle, house trailer or boat.

(g) *Long-term mortgage loans—*(1) *Authority.* A federal credit union may make residential real estate loans to members, including loans secured by manufactured homes permanently

affixed to the land, with maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case-by-case basis, subject to the conditions of this paragraph (g).

\* \* \* \* \*

[FR Doc. 04-25996 Filed 11-24-04; 8:45 am]

BILLING CODE 7535-01-P

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

#### **Food and Drug Administration**

#### **21 CFR Chapter 1**

[Docket No. 2002N-0434]

#### **Withdrawal of Certain Proposed Rules and Other Proposed Actions**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Withdrawal of proposed rules.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the withdrawal of certain advance notice of proposed rulemakings (ANPRMs), proposed rules, and other proposed actions that published in the **Federal Register** more than 5 years ago. These proposals are no longer considered viable candidates for final action at this time. FDA is taking this action to reduce its regulatory backlog and focus its resources on current public health issues. The FDA's actions are part of an overall regulatory reform strategy initiated by Health and Human Services (HHS) Secretary Tommy G. Thompson.

**DATES:** The proposed rules are withdrawn as of November 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lisa M. Helmanis, Regulations Policy and Management Staff (HF-26), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3480.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On June 8, 2001, Secretary Thompson announced his regulatory reform initiative designed to reduce regulatory burdens in health care and respond faster to the concerns of health care providers, State and local governments, and individual Americans who are affected by HHS rules. In December 2001, the Secretary announced the membership of his Regulatory Reform Committee designed to carry out his initiative. In November 2002, the Committee released its final report with over 255 specific recommendations for simplifying, streamlining, and generally reducing the regulatory burden while