in matters of general applicability, such as payment rates, payment limits, and cost-share percentages, the designation of identified priority natural resource concerns, and eligible conservation practices are not subject to appeal.

§ 1466.31 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1466.32 Access to operating unit.

Any authorized NRCS representative shall have the right to enter an operating unit or tract for the purpose of ascertaining the accuracy of any representations made in a contract or in anticipation of entering a contract, as to the performance of the terms and conditions of the contract. Access shall include the right to provide technical assistance, inspect any work undertaken under the contract, and collect information necessary to evaluate the performance of conservation practices in the contract. The NRCS representative shall make a reasonable effort to contact the participant prior to the exercise of this provision.

§ 1466.33 Performance based upon advice or action of representatives of NRCS.

If a participant relied upon the advice or action of any authorized representative of NRCS and did not know, or have reason to know, that the action or advice was improper or erroneous, NRCS may accept the advice or action as meeting the requirements of the program and may grant relief, to the extent it is deemed desirable by NRCS, to provide a fair and equitable treatment because of the good-faith reliance on the part of the participant. The financial or technical liability for any action by a participant that was taken based on the advice of a NRCS certified non-USDA Technical Service Provider will remain with the certified Technical Service Provider and will not be assumed by NRCS when NRCS authorizes payment.

§ 1466.34 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at 7 CFR part 1403 shall be applicable to contract payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at 7 CFR part 1404.

§ 1466.35 Misrepresentation and scheme or device.

(a) A producer who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to contract payments and must refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403.

(b) A producer who is determined to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination, shall refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403, received by such producer with respect to all contracts. The producer's interest in all contracts shall be terminated.

Signed in Washington, DC on May 15, 2003.

Bruce I. Knight,

Vice President, Commodity Credit Corporation, Chief, Natural Resources Conservation Service.

[FR Doc. 03–13024 Filed 5–29–03; 8:45 am]

BILLING CODE 3410–10–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 709

Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) is issuing a final rule amending its involuntary liquidation regulation to designate swap agreements (swaps) as qualified financial contracts (QFCs). Treatment of swaps as QFCs will limit swap counterparty exposure when a federally-insured credit union is placed into involuntary liquidation or a conservatorship and thereby encourage entities to engage in swaps with federally-insured credit unions. Treatment of swaps as QFCs will also help preserve market stability.

EFFECTIVE DATES: This rule is effective June 30, 2003.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Paul Peterson, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6555.

SUPPLEMENTARY INFORMATION:

A. Background

On February 20, 2003, NCUA issued a proposed rule that would add § 709.13 to NCUA's involuntary liquidation regulation to designate swaps as QFCs. 68 FR 8860, February 26, 2003; 12 CFR part 709.

As discussed in the preamble to the proposed rule, section 207 of the Federal Credit Union Act (FCU Act) contains provisions concerning the treatment of QFCs in liquidation or conservatorship. 12 U.S.C. 1787(c)(3), (8). Generally, these QFC provisions enable a QFC counterparty to exercise its contractual rights to terminate and net QFCs and protect itself against the selective assumption of QFCs by a liquidating agent or conservator. QFC treatment limits counterparty exposure and preserves market stability when a credit union with QFCs enters liquidation or conservatorship.

Section 207 of the FCU Act also provides that ''the term 'qualified financial contract' means any securities contract, forward contract, repurchase agreement, and any similar agreement that the [NCUA] Board determines by regulation to be a qualified financial contract for purposes of this paragraph.'' 12 U.S.C. 1787(c)(8)(D)(i). The Board has determined that swaps are similar to those agreements enumerated in the FCU Act's definition and should be recognized as QFCs. *See* H.R. Rep. No. 101–484 at 1 (recognizing that swaps are ''similar'' to forward contracts, securities contracts, and repurchase agreements), to accompany Pub. L. 101–311 (Bankruptcy: Swap Agreements and Forward Contracts), *reprinted in* 1990 U.S.C.C.A.N. 223. This Board determination that swaps receive QFC treatment will provide greater certainty about the treatment of swaps if a federally-insured credit union is placed into involuntary liquidation or a conservatorship and will encourage

counterparties to engage in swaps with credit unions. This final rule also parallels the Federal Deposit Insurance Act's treatment of swaps involving banks. 12 U.S.C. 1821(e)(8)(D)(i), (vi), (vii).

As stated in the preamble to the proposed rule, the Board has determined that it will exercise its discretion as liquidating agent or conservator and provide swaps with QFC treatment if there is a liquidation or conservatorship involving swaps before this final rule is effective.

B. Comments

The Board received thirteen comment letters on the proposed rule: five from corporate credit unions, three from natural person credit unions, and five from credit union trade organizations.

All thirteen commenters expressed support for designating swaps as QFCs. Nine of the thirteen commenters recommended that the language of the proposed rule be amended to clarify that any master agreement involving swaps will be treated as a swap. The Board agrees with this recommended clarification and has added language to the final rule paralleling a similar provision in the Federal Deposit Insurance Act. 12 U.S.C. 1821(e)(8)(D)(vii).

One commenter asked that the new rule state explicitly that any conservator or liquidating agent of a credit union would be obligated to recognize all of the rights of QFC counterparties set out in section 207(c)(8)(A) of the FCU Act. 12 U.S.C. 1787(c)(8)(A). This commenter believes section 207(c)(8)(A) of the FCU Act contains an erroneous cross-reference to section 207(c)(12) of the FCU Act and that adoption of the commenter's proposed language would cure this error. 12 U.S.C. 1787(c)(12). The Board agrees that this cross-reference to section 207(c)(12) is erroneous. The correct cross-reference should be to section 207(c)(10), as indicated by comparison with parallel provisions in the Federal Deposit Insurance Act. 12 U.S.C. 1787(c)(8)(A) and 1821(e)(8)(A). Although the Board cannot issue a regulation for purposes of correcting a statute, the Board will limit its discretion when acting as a liquidating agent or conservator to allow counterparties to exercise their rights under section 207(c)(8)(A) as if that section contained a cross-reference to section 207(c)(10), not section 207(c)(12). The Board also notes the House of Representatives recently approved a bill that would, if enacted into law, correct this error. Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, H.R. 975, Title IX (Toomey Amendment).

Another commenter asked that the Board also designate commodity contracts as QFCs. The proposed rule did not address commodity contracts, and, therefore, they are beyond the scope of this final rule. Furthermore, the Board notes that natural person federal credit unions do not currently have the authority to enter into commodity contracts and that corporate credit unions may not enter into commodity contracts unless specifically authorized to engage in commodity contracts under their expanded authorities. *See* 12 CFR part 703 and 12 CFR part 704, Appendix B, Part IV.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under one million dollars in assets). The Board believes it unlikely that any small federally-insured credit unions engage in swaps. Accordingly, the Board believes that the final rule would not have a significant economic impact on a substantial number of small credit unions, and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that this final rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

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. This final rule would not have substantial direct effects 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 final 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

The NCUA has determined that this final 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).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedures Act. 5 U.S.C. 551. NCUA has recommended to The Office of Management and Budget that it determine that this final rule is not a major rule, and is awaiting its determination.

Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose minimal regulatory burden. NCUA requested comment on whether the proposed rule met this standard. No commenters addressed the issue.

List of Subjects in 12 CFR Part 709

Credit unions, Liquidations.

By the National Credit Union Administration Board on May 22, 2003.

Becky Baker,

Secretary of the Board.

■ Accordingly, NCUA amends 12 CFR part 709 as follows:

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

■ 1. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1757, 12 U.S.C. 1766, 12 U.S.C. 1767, 12 U.S.C. 1786(h), 12 U.S.C. 1787, 12 U.S.C. 1788, 12 U.S.C. 1789, 12 U.S.C. 1789a.

■ 2. Add § 709.13 to read as follows:

§ 709.13 Treatment of swap agreements in liquidation or conservatorship.

The Board has determined that a swap agreement, as defined in the Federal Deposit Insurance Act at 12 U.S.C. 1821(e)(8)(D)(vi), is a qualified financial contract for purposes of the special treatment for qualified financial contracts provided in 12 U.S.C. 1787(c).

Any master agreement for any swap agreement, together with all supplements to such master agreement, will be treated as one swap agreement.

[FR Doc. 03–13343 Filed 5–29–03; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15256; Airspace Docket No. 03–ACE–49]

Modification of Class E Airspace; Falls City, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: An Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 14 ORIGINAL Standard Instrument Approach Procedure (SIAP) and an RNAV (GPS) RWY 32 ORIGINAL SIAP have been developed to serve Brenner Field, Falls City, NE. The Nondirectional Radio Beacon (NDB) A SIAP that serves Brenner Field has been amended. These actions require an expansion of Class E airspace extending upward from 700 feet above ground level (AGL) at Falls City, NE to contain aircraft executing the approach procedures. The Brenner Field airport reference point has been redefined and is incorporated into the legal description of Falls City, NE Class E airspace.

DATES: This direct final rule is effective on 0901 UTC, September 4, 2003. Comments for inclusion in the Rules Docket must be received on or before July 10, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15256/ Airspace Docket No. 03–ACE–49; at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the Class E airspace area at Falls City, NE. An RNAV (GPS) RWY 14 ORIGINAL SIAP and an RNAV (GPS) RWY 32 ORIGINAL SIAP have been developed to serve Brenner Field, Falls City, NE. The Nondirectional Radio Beacon (NDB) A SIAP that serves Brenner Field has been amended. These SIAPs require additional controlled airspace to contain aircraft executing the approach procedures. This action expands Class E airspace extending upward from 700 feet AGL at Falls City, NE. A review of the Falls City, NE Class E airspace revealed a discrepancy in the Falls City, Brenner Field, NE airport reference point. Class E controlled airspace at Falls City, NE is defined, in part, by the Brenner Field airport reference point. This action corrects the discrepancy between the previous and revised airport reference points by modifying the Falls City, NE Class E airspace area. It incorporates the revised Brenner Field airport reference point in the Class E airspace legal description and brings the airspace area into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–15256/Airspace Docket No. 03–ACE–49.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 12132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.