

Accordingly, it has been determined that the provisions of the proposed rule should be adopted as the final rule with a technical revision. In developing and publishing the proposed rule part of the color certification relating to the United States Standards of Grades of Extracted Honey was inadvertently retained in 7 CFR 1434.17(c). Since the appropriate color certification procedures are fully contained in the ASCS Specification for Unprocessed Honey, § 1434.17(c) has been revised to delete the unnecessary provisions. It is not believed that this change is of such significance as to warrant further public comment.

List of Subjects in 7 CFR Part 1434

Honey, Loan programs—agriculture, Price support programs, Warehouse.

PART 1434—[AMENDED]

Final Rule

Accordingly, 7 CFR 1434.17(b) and (c) are revised to read as follows:

§ 1434.17 Determination of quality.

(b) *Quality for settlement* (1) *Farm storage in eligible containers.* When honey is delivered to CCC in eligible containers from farm storage, its quality and color shall be determined by the Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), in accordance with the ASCS Specifications for Unprocessed Honey on the basis of samples drawn by ASCS representatives supervising delivery. Samples shall not be drawn until the producer has designated all lots. Single containers shall not be considered as lots unless necessitated by color or floral source. The cost of quality and color determinations for a maximum of four lots shall be for the account of CCC.

(2) *Identity-preserved warehouse-stored.* When honey stored identity-preserved in containers in an approval warehouse is delivered to CCC, its quality and color shall be determined by the Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), in accordance with the ASCS Specifications for Unprocessed honey on the basis of samples drawn by ASCS representatives supervising delivery. The cost of such determination shall be for the account of CCC.

(c) *Segregation by color.* Table honey in eligible containers shall, insofar as is practicable, be segregated into lots by color to conform with the color categories which are set forth in the

ASCS Specifications for Unprocessed Honey.

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); Sec. 5, 62 Stat. 1072, (15 U.S.C. 714c); secs. 201, 401, 63 Stat. 1052, as amended, 1054, as amended (7 U.S.C. 1446, 1421).

Signed at Washington, D.C., on January 28, 1985.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Share, Share Draft, and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The NCUA Board adopts an amendment to the regulations concerning disclosures, fees, and time for crediting of deposited funds relating to share, share draft, and share certificate accounts. Recognizing the dual chartering system for credit unions, the Board, by way of this final rule, is formally stating its position on its jurisdiction to regulate Federal credit unions ("FCU's"). The rule interprets and implements the provisions in Section 107(6) of the Federal Credit Union Act ("Act") (12 U.S.C. 1757(6)) authorizing FCU's to receive payments on shares, share certificates, and share drafts, "subject to such terms, rates, and conditions as may be established by the board of directors [of an FCU], within the limitations prescribed by the Board."

EFFECTIVE DATE: February 1, 1985.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Director, Department of Legal Services, or Steven Bisker, Assistant General Counsel, at the above address. Telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1984, (49 FR 46552) the NCUA Board published a proposal to add two new paragraphs, (c) and (d), to Section 701.35 of the NCUA Rules and Regulations. The Board requested public comment on the proposed rule.

As discussed in the preamble to the proposed rule, the Board considered an

amendment to the rule necessary in order to clarify its intent in previously deregulating Section 701.35, because of recent actions by several states attempting to regulate Federal credit unions. This final rule provides that policies with respect to disclosures, fees or charges, time for crediting of deposited funds, and other matters affecting the opening, maintaining or closing of a share, share draft or share certificate account, shall be determined by an FCU's member-elected board of directors, free from regulatory restrictions. This action will ensure the continued efficacy of the NCUA Board's previous deregulation of FCU share account activity and furthers the Board's longstanding support of a viable dual chartering system.

The Board received a total of 25 comments—16 from FCU's, 1 from a state chartered credit union, 5 from credit union leagues and trade associations, 2 from state regulatory authorities, and 1 from a law firm. All of the commenters, except those from the state regulatory authorities and the state credit union, supported the proposed amendment.

Analysis of Comments

Crediting of deposited funds

The majority of the commenters stated that, although they currently have policies whereby checks (drafts) deposited into their members' accounts are given credit immediately (treated as if they were cash deposits), they still support the Board's position that such policies should be decided by an FCU's board of directors and not dictated by statute or regulation. Further, the commenters stressed that, in any event, they should not be subject to state laws since that would be inconsistent with the dual chartering system and would result in regulatory conflicts.

Another point stressed by the commenters was the democratic form of ownership of FCU's. They believed that if the policies of an FCU were unacceptable to its members, the officials of the FCU would be replaced at the next annual election. Therefore, the system provides its own mechanism of enforcement and protection for the members. As one commenter stated:

"... as member owned and controlled financial institutions, [FCU's] cannot afford to alienate their 'customers.' If we did, the elected officials and management would be job hunting."

One commenter opposed to the rule expressed the opinion that FCU's should be required to follow state laws

mandating "check hold" policies and specified disclosures. It is this commenter's belief that only through compliance with state laws governing all financial institutions in the state will the consumer be treated equitably.

The Board is equally concerned with the fair treatment of FCU members. However, for the reasons stated above, the Board does not agree that regulations are necessary. Moreover, a review of NCUA's consumer complaint handling process indicates only a very limited number of complaints concerning share account disclosures, funds availability and other share account policies. In sum, share account deregulation is working well in FCU's. To allow the states to regulate would infringe on NCUA's jurisdiction in this area and would be inconsistent with the dual chartering system.

Fees

A number of commenters stated that they do not charge fees to their members. However, they agreed that the matter of determining what fees, if any, to charge members should be a matter to be decided by an FCU's board rather than dictated by regulation.

One commenter, a state regulatory agency, was particularly concerned about the impact of this regulation on the state's right to escheat abandoned accounts. The commenter was concerned with the possibility that service charges assessed against inactive (dormant) accounts might absorb accounts or portions thereof. The Board previously addressed this issue in its Interpretive Ruling and Policy Statement 82-4, Examination For Compliance with State Unclaimed Property Laws. (47 FR 53325 (November 26, 1982)). The Board stated that: "To the extent that such charges are either authorized or not prohibited by the Federal Credit Union Act, NCUA Rules and Regulations or Board policy, and are provided for in the contract with the member, it is the Board's position that state law prohibiting such charges would be preempted."

The Board is confident that FCU's will continue to serve their members well, and does not believe that the issue of fees is one that requires regulatory control at this time.

Broader Rule

A few commenters expressed their support for the rule but states that it does not go far enough. One commenter suggested that the Board incorporate into the rule a restatement of the statutory authority granted FCU's in Section 107(6) of the Act to receive payments on shares, share certificates

and share drafts subject to such terms, rates, and conditions as established by an FCU's board of directors. Inasmuch as the rule does not replace or alter the authority in the Act, the Board does not believe it is necessary to restate the authority provided by the Act.

Another commenter stated that the laws of its state impose sales taxes on charges pertaining to FCU member accounts and services and require FCU's to collect such taxes from their members and remit them to the local government. The sales tax applies to such charges as: check/draft printing charges, account maintenance fees, NSF charges, etc. The commenter suggested that the Board address this issue in the rule. The issue of taxation is addressed in a separate section of the Act. Section 122 of the Act (12 U.S.C. 1768) specifies the liability of FCU's for paying taxes and the role of FCU's in collecting taxes. The issue raised by the commenter is more appropriately dealt with within the ambit of Section 122, rather than this rule which relies upon Section 107(6) as its principal statutory basis.

Effective Date of the Rule

This final rule will be effective upon publication. The rule provides greater authority to FCU's and relieves restrictions. Further, since several states now purport to regulate FCU's in this area, it is necessary to have the rule become effective immediately in order to eliminate uncertainty.

Regulatory Procedures

Regulatory Flexibility

The NCUA Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions because the rule will increase their management flexibility and reduce their paperwork burdens. A Regulatory Flexibility Analysis is, therefore, not required.

Financial Regulation Simplification Act

Since this final rule reduces burdens and delay would cause unnecessary harm, the NCUA Board finds that full and separate consideration of all the requirements of the Financial Regulation Simplification Act is impracticable. The NCUA Board has, however, considered most of these policies, as set forth in the preamble above.

List of Subjects in 12 CFR Part 701

Credit unions, Share drafts, Share certificates, Funds availability, Fees, Disclosures.

(12 U.S.C. 1757(6), 1766(a), and 1789(a)(11))

By the National Credit Union Administration Board on the 24th day of January, 1985.

Rosemary Brady,
Secretary of the Board.

Accordingly, the NCUA rules and regulations in 12 CFR Chapter VII are amended as follows:

PART 701—[AMENDED]

§ 701.35 [Amended]

Section 701.35 is amended by adding two new paragraphs, (c) and (d), to read as follows:

(c) A Federal credit union is empowered to determine the types of disclosures, fees or charges, time for crediting of deposited funds, and all other matters, not inconsistent with this Section, affecting the opening, maintaining or closing of a share, share draft or share certificate account. To the extent that state law attempts to regulate such activity, it is not applicable. Nothing herein is intended, however, to allow a Federal credit union to amend or modify its contract with a member unilaterally unless it has previously reserved the right to do so.

(d) For purposes of this section, "state law" means the constitution, statutes, regulations, and judicial decisions of any state, the District of Columbia, the several territories and possessions of the United States, and the Commonwealth of Puerto Rico.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-07-AD; Amdt. 39-4994]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that would require inspection of the fuselage lower skin in the immediate area surrounding the VHF antenna, on certain McDonnell Douglas DC-9 series airplanes. This amendment is prompted by reports of cracks in the skin adjacent to the mounting holes for the VHF antenna. If allowed to go undetected,