

(ii) a recent history of the accuracy or timeliness of the federally-insured credit union's prior 5300 Reports;

(iii) the estimated costs to NCUA as a result of the inaccuracy or late filing;

(iv) whether the errors, if any, were substantive and why and;

(v) steps that the federally-insured credit union could take to avoid filing future inaccurate or late 5300 reports.

(vi) request that the federally-insured credit union respond within 30 days with a written proposal that describes how it intends to avoid submitting another late or inaccurate 5300 Report, seeks a waiver or abatement of the assessment or states why the federally-insured credit union's 5300 Reports is not inaccurate or late.

(4) The costs for a late or inaccurate 5300 Report shall be calculated based on the actual hours expended by NCUA personnel multiplied by the average hourly cost of the salaries and benefits of such personnel.

(5) Prior to making a final assessment determination, the NCUA regional director may waive or abate any costs assessed against a federally-insured credit union after taking into account the size of federally-insured credit union that sets forth a reasonable basis for waiving or abating the costs.

(6) A federally-insured credit union may challenge a final assessment by submitting written reasons why the assessment should be waived or abated to the NCUA Board within 30 days of receiving the final assessment from the region. The Board may delegate the authority to determine an appeal of an assessment. The Board or its designee shall consider all relevant facts and consult with any relevant parties prior to making a final agency determination.

[FR Doc. 96-2017 Filed 2-2-96; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Parts 701 and 705

Community Development Revolving Loan Program For Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Amendments.

SUMMARY: The purpose of the Community Development Revolving Loan Program for Credit Unions is to make reduced rate loans and provide technical assistance to both federal and state-chartered credit unions serving low-income communities. The Board is proposing to modify this regulation to: eliminate the limits on technical assistance that may be provided per year to participating credit unions; clarify

that student credit unions may not participate in the Program; clarify that credit unions may receive up to \$300,000 in loans in the aggregate at any one time; and require additional documentation from nonfederally insured credit unions that may wish to participate in the Program. Finally, the Board is requesting comment on updating the percentage of the differentials used to calculate the low-income levels.

DATES: Comments must be received on or before April 5, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518-6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Joyce Jackson, Special Assistant, Office of Community Development Credit Unions, at the above address or telephone (703) 518-6610 or Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION: The purpose of the Community Development Revolving Loan Program ("Program") is to make reduced rate loans and provide technical assistance to federal and state-chartered credit unions serving low-income communities so that they may provide needed financial services and help to stimulate the economy in the community served.

Although the Program has functioned well, the Board is proposing five amendments to improve and clarify certain aspects of the Program.

Section 705.3 Definitions

This section, among other things, defines the term low-income members. In documenting its low-income membership, a credit union that serves a geographic area where a majority of residents fall at or below the annual income standard is presumed to be serving predominantly low-income members. In applying the low-income standard the Regional Director must use specifically defined differentials for geographical areas with a higher cost of living. These differentials were originally obtained from a list maintained by the Bureau of Labor Statistics, as updated by the Employment and Training Administration. In order to recognize

geographic economic differences, cities that were above the national average for the lower level standard of living numbers for the 25 largest metropolitan areas were provided differentials to be applied by the Regional Director. Since the differentials were added to the regulation in April 1993, there have been changes in economic conditions in many cities. NCUA is studying how the differentials should be adjusted and invites comment on how they should be updated.

Some in the credit union community have questioned whether student credit unions are eligible to participate in the Program. The preamble to the final 1993 amendments stated that although "student federal credit unions are 'low-income credit unions' for purposes of receiving nonmember deposits, they do not qualify for participation in the Program because they are not specifically involved in the stimulation of economic development activities and community revitalization efforts." 58 FR 21642, 21645 (April 23, 1993). The Board proposes to amend Section 705.3(b) to clarify that student credit unions may not participate in the Program.

Section 705.5 Application for Participation

The Board is proposing that a nonfederally insured credit union that wishes to participate in the Program provide additional documentation during the application process. Because NCUA neither regulates nor insures nonfederally insured state chartered credit unions, additional information is required so that NCUA may properly consider the application. This change would provide documentation that is comparable to the information accessible to NCUA for federally insured credit unions. Accordingly, the Board is proposing that Section 705.5(b)(1) be amended to require nonfederally insured credit union to provide in its application for Program participation a copy of its most recent outside audit report and proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies.

Section 705.7 Loans to Participating Credit Unions

Section 705.7 states that a participating credit union is eligible "to receive up to \$300,000, as determined by the NCUA Board, in the form of a loan from the Community Development Revolving Loan Fund for Credit Unions." Some have questioned whether this means that a credit union may receive more than one \$300,000

loan under the Program. The Board does not believe it is appropriate to grant loans in excess of \$300,000 to one credit union considering the Program's limited funds. Accordingly, the proposed amendment to Section 705.7(a) clarifies that the aggregate dollar amount of outstanding loans to one credit union is limited to \$300,000.

Section 705.10 Technical Assistance

Under the current Section 705.10, technical assistance may not exceed \$120,000 per year. The Board believes that technical assistance is a vital component of the Program and anticipates that available earnings may soon exceed \$120,000. As a result, the Board is proposing to eliminate the dollar threshold on technical assistance. This change will provide NCUA greater flexibility in providing technical assistance.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The proposed amendments generally clarify operational issues. The one significant change regarding technical assistance is expected to benefit credit unions by increasing the available pool of funds for technical assistance. Accordingly, the Board determines and certifies that this proposed rule does not have a significant impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). 60 FR 44978 (August 29, 1995).

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its action on state interests. The Program is implemented in its entirety by the NCUA. The proposed rule will permit more funds to be available for technical assistance to all credit unions, including state-chartered credit unions. The proposed amendments impose a minimal burden on nonfederally insured state chartered credit unions that wish to participate in the Program. The amendments 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 powers among the various levels of government.

List of Subjects

12 CFR Part 701

Credit, Credit unions.

12 CFR Part 705

Community development, Credit unions, Loans programs-housing and community development, Reporting and recordkeeping requirements, Technical assistance.

By the National Credit Union Administration Board on January 25, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 701 and 705 as follows:

PART 701—ORGANIZATION AND OPERATION 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. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1861 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.34 is amended by revising paragraph (a)(1) to read as follows:

§ 701.34 Designation of Low-Income Status; Receipt of Secondary Capital Accounts by Low-Income Designated Credit Unions.

(a) *Designation of low-income status.*
(1) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) authorizes federal credit unions serving predominantly low-income members to receive shares, share drafts and share certificates from nonmembers. In order to utilize this authority, a federal credit union must receive a low-income designation from its Regional Director. The designation may be removed by the Regional Director upon notice to the federal credit union if the definition set forth in paragraphs (a)(2) and (3) of this section are no longer met. Removals may be appealed to the NCUA Board within 60 days. Appeals should be submitted through the Regional Director.

* * * * *

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

3. The authority citation for part 705 is revised to read as follows:

Authority: 12 U.S.C. 1772c–1; 42 U.S.C. 9822 and 9822 note.

4. Section 705.3 is amended by revising paragraph (b) to read as follows:

§ 705.3 Definitions.

* * * * *

(b) For purposes of this part, a *participating credit union* means a state- or federally chartered credit union that is specifically involved in the stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership consists of predominantly low-income members (excluding students) as defined in paragraph (a) of this section or applicable state standards as reflected by a current low-income designation pursuant to § 701.34(d)(1) or § 741.204 of this chapter or, in the case of a state-chartered nonfederally insured credit union, under applicable state standards; and has submitted an application for a loan and/or technical assistance and has been selected for participation in the Program in accordance with this Part.

5. Section 705.5 is amended by revising paragraph (b)(1) to read as follows:

§ 705.5 Application for participation.

* * * * *

(b) * * *
(1) Information demonstrating a sound financial position and the credit union's ability to manage its day-to-day business affairs, including the credit union's latest financial statement. Nonfederally insured credit unions must include the following:

(i) A copy of its most recent outside audit report;

(ii) Proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies;

(iii) A balance sheet for the most recent month-end and each of the twelve months preceding that month-end;

(iv) An income and expense statement for the most recent month-end and each of the twelve months preceding the month-end;

(v) A delinquent loan list for the most recent month-end and each of the twelve months preceding the month-end.

* * * * *

§ 705.7 [Amended]

5. Section 705.7 is amended in paragraph (a) by adding "in the aggregate" after the number "\$300,000".

6. Section 705.10 is revised to read as follows:

§ 705.10 Technical assistance.

Based on available earnings, NCUA may contract with outside providers to render technical assistance to participating credit unions. Participating credit unions can be provided with technical assistance without obtaining a Program loan. Technical assistance provided will aid participating credit unions in providing services to their members and in the efficient operation of such credit unions.

[FR Doc. 96-2019 Filed 2-2-96; 8:45 am]

BILLING CODE 7535-01-P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 228

Rules on Source, Origin and Nationality for Commodities and Services Financed by the Agency for International Development

AGENCY: United States Agency for International Development (USAID), IDCA.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would add a new Part 228 to Title 22 of the CFR which would codify the rules on source, origin and nationality for commodities and services financed by USAID.

DATES: Comments on this proposed rule must be submitted on or before April 5, 1996.

ADDRESSES: Comments should be mailed to the Procurement Policy Division (M/OP/P), Office of Procurement, USAID, SA-14, Room 1600I, 320 21st Street, NW., Washington, DC 20523-1435.

FOR FURTHER INFORMATION CONTACT:

Kathleen J. O'Hara, Office of Procurement, Procurement Policy Division (M/OP/P), USAID, SA-14, Room 1600I, USAID, Washington, DC 20523-1435. Telephone (703) 875-1534, Facsimile (703) 875-1243.

SUPPLEMENTARY INFORMATION: This proposed rule would codify USAID's current rules (published as internal agency policy) on source, origin and nationality for commodities and services with a few changes which are explained below.

USAID's rules currently include a limitation on the value of components from countries which are not authorized sources for procurement which may be included in a produced commodity. The

total cost of such components to the producer of the commodity (delivered at the point of production of the commodity) may not exceed 50 percent of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by USAID). As the U.S. economy has become more global, this requirement concerning componentry has become substantially more complex, and internal USAID audits have essentially found it to be impracticable to implement and enforce.

Further, USAID has determined that the test of origin of the commodity (i.e., the requirement that a commodity be mined, grown, or produced in an authorized source country) provides sufficient assurance that economic benefits will accrue to the country from which the commodity is purchased. Therefore, for purposes of streamlining USAID rules, removing unnecessary compliance burdens for government contractors and ensuring that the government buys at the lowest available price, the componentry requirement has been deleted from this proposed rule.

Additionally, this proposed rule specifically excludes the applicability of USAID's rules on nationality to commissions paid by suppliers, bonds and guarantees, and liability insurance under construction contracts, with the exception that no payments shall be made to suppliers designated as ineligible in Section 228.36 of the proposed regulation. These are considered miscellaneous services transactions, which can be commodity-related, but may also be related to contracts for professional, technical, or construction services. By the nature of the services involved, it is not considered practical to apply the nationality requirements to these services.

Public comments on this proposed rule are welcome.

USAID has determined that this proposed rule is not a significant regulatory action under Executive Order 12866. The proposed rule has been reviewed in accordance with the requirement of the Regulatory Flexibility Act. USAID has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, a Regulatory Flexibility Analysis is not required. There are no information collection requirements in this proposed rule as contemplated by the Paperwork Reduction Act.

Lists of Subjects in 22 CFR Part 228

Commodity procurement, Grant programs—foreign relations, Administrative practice and procedures.

Accordingly, Part 228 of Title 22 of the Code of Federal Regulations is proposed to be added, consisting of Subparts A through F, to read as follows:

PART 228—RULES ON SOURCE AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY USAID

Subpart A—Definitions and Scope of This Part

Sec.

- 228.01 Definitions.
- 228.02 Scope and application.
- 228.03 Identification of principal geographic code numbers.

Subpart B—Conditions Governing Source and Nationality of Commodity Procurement Transactions for USAID Financing

- 228.10 Purpose.
- 228.11 Source and origin of commodities.
- 228.12 Long-term leases.
- 228.13 Special source rules requiring procurement from the United States.
- 228.14 Nationality of suppliers of commodities.

Subpart C—Conditions Governing the Eligibility of Commodity-Related Services for USAID Financing

- 228.20 Purpose.
- 228.21 Ocean transportation.
- 228.22 Air transportation.
- 228.23 Eligibility of marine insurance.
- 228.24 Other delivery services.
- 228.25 Incidental services.

Subpart D—Conditions Governing the Nationality of Suppliers of Services for USAID Financing

- 228.30 Purpose.
- 228.31 Privately owned commercial suppliers.
- 228.32 Nonprofit organizations.
- 228.33 Foreign government-owned organizations.
- 228.34 Joint ventures.
- 228.35 Construction services from foreign-owned local firms.
- 228.36 Ineligible suppliers.
- 228.37 Nationality of employees under contracts or subcontracts for services.
- 228.38 Miscellaneous service transactions.

Subpart E—Conditions Governing Source and Nationality of Local Procurement Transactions for USAID Financing

- 228.40 Local procurement.

Subpart F—Waivers

- 228.50 General.
- 228.51 Commodities.
- 228.52 Suppliers of commodities.
- 228.53 Suppliers of services—privately owned commercial suppliers and nonprofit organizations.
- 228.54 Suppliers of services—foreign government-owned organizations.