

(b) [Reserved]

(c) The general licensee shall make initial and written reports in accordance with §§ 72.74 and 72.75.

Dated at Rockville, Maryland, this 18th day of October, 2000.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook**

*Secretary of the Commission.*

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 792

#### The Production of Nonpublic Records and Testimony of NCUA Employees in Legal Proceedings and the Privacy Act

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

**ACTION:** Final rule.

**SUMMARY:** NCUA is making minor and technical revisions to its regulation implementing the Privacy Act of 1974 (PA). The revised rule is updated to conform to current law governing the method an individual may use to establish his or her identity to obtain access to protected records and the requirements for the release of medical records. The revised rule changes time limits so that they conform more closely to those under the Freedom of Information Act (FOIA) and clarifies that the agency maintains four, rather than three, systems of records subject to exemptions under the PA. The revision also updates the rule to reflect organizational changes within NCUA and corrects cross-references in Subpart C, which governs the production of nonpublic records and the testimony of NCUA employees in legal proceedings.

**DATES:** This rule is effective November 24, 2000.

**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:** On June 12, 2000, NCUA published a proposal to revise its PA regulation, announcing that it would accept comments from the public for a period of 60 days. 65 FR 36797, June 12, 2000. All comments submitted to NCUA were favorable.

As part of a government-wide initiative, NCUA reviewed its practices related to privacy and personal information in federal records. In its review of the agency systems of records, it identified several changes in record

keeping practices and agency organization. As a result, NCUA revised its systems notices to make them clearer and simpler and to eliminate redundancies. 65 FR 3486, January 21, 2000. Now, as a result of its review of the PA regulation, NCUA is updating the regulation to reflect current law, terminology and organizational functions and clarify which of its systems of records are subject to PA exemptions. The changes are minor and technical and streamline the regulation to make it clearer and simpler to use.

#### Regulatory Procedures

##### *Paperwork Reduction Act*

This regulation imposes no additional information collection, reporting or record keeping requirements.

##### *Regulatory Flexibility Act*

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), NCUA certifies that this rule will not have a significant economic impact on a substantial number of small entities. NCUA expects that this amended rule will not: (1) Have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the regulation's changes are minor and are intended to simplify and clarify agency record keeping and disclosure procedures. Accordingly, a regulatory flexibility analysis is not required.

##### *Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory 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 rule is procedural in nature and will not have substantial direct effects 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. NCUA has determined that the rule does not constitute a policy that has federalism implications for purposes of the executive order.

##### *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 is not a major rule, and is awaiting its determination.

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

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

##### *Agency Regulatory Goal*

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We find that these amendments are understandable and minimally intrusive.

#### List of Subjects in 12 CFR Part 792

Administrative practice and procedure, Archives and records, Credit unions, Information, Records.

By the National Credit Union Administration Board on October 19, 2000.

**Becky Baker,**

*Secretary of the Board.*

For the reasons set out in the preamble, the NCUA amends 12 CFR part 792 as follows:

#### **PART 792—REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT AND PRIVACY ACT, AND BY SUBPOENA; SECURITY PROCEDURES FOR CLASSIFIED INFORMATION**

1. The authority citation for part 792 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 552b; 12 U.S.C. 1752a(d), 1766, 1789, 1795f; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333.

##### **§ 792.41 [Amended]**

2. In § 792.41, remove “§ 792.4(b)(2)” and add, in its place, “§ 792.32.”

##### **§ 792.47 [Amended]**

3. In § 792.47(b), remove “§ 792.5” and add, in its place, “§ 792.19.”

##### **§ 792.49 [Amended]**

4. In § 792.49, in the definition of *Nonpublic records*, remove “§ 792.3” and add, in its place, “§ 792.11”.

5. Amend § 792.55 by revising paragraph (a)(3) to read as follows:

**§ 792.55 Times, places and requirements for identification of individuals making requests and identification of records requested.**

(a) \* \* \*

(3) An individual seeking access to records about himself by mail or in person, who cannot provide the required documentation or identification, may provide an unsworn declaration subscribed to as true under penalty of perjury.

\* \* \* \* \*

6. Amend § 792.56 by revising paragraphs (b)(1), (b)(2) and (b)(3) to read as follows:

**§ 792.56 Notice of existence of records, access decisions and disclosure of requested information; time limits.**

\* \* \* \* \*

(b) \* \* \*

(1) A request concerning a single system of records which does not require consultation with or requisition of records from another agency will be responded to within 20 working days after receipt of the request.

(2) A request requiring requisition of records from or consultation with another agency will be responded to within 30 working days of receipt of the request.

(3) If a request under paragraphs (b)(1) or (2) of this section presents unusual difficulties in determining whether the records involved are exempt from disclosure, the Privacy Act Officer, in the Office of General Counsel, may extend the time period established by the regulations by 10 working days.

\* \* \* \* \*

7. Amend § 792.57 by revising paragraph (b) to read as follows:

**§ 792.57 Special Procedures: Information furnished by other agencies; medical records.**

\* \* \* \* \*

(b) When an individual requests medical records concerning himself, the NCUA official responsible for action on the request may advise the individual that the records to be released will be provided first to a physician designated in writing by the individual. The physician will provide the records to the individual.

8. Amend § 792.58 by revising the fourth sentence of paragraph (a) to read as follows:

**§ 792.58 Requests for correction or amendment to a record; administrative review of requests.**

\* \* \* \* \*

(a) \* \* \* An individual who does not have access to NCUA's "Notice of Systems of Records," and to whom the

appropriate address is otherwise unavailable, may submit a request to the Privacy Act Officer, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314-3428, in which case the request will then be referred to the appropriate NCUA official. \* \* \*

\* \* \* \* \*

9. Amend § 792.59 by revising paragraph (e) to read as follows:

**§ 792.59 Appeal of initial determination.**

\* \* \* \* \*

(e) If access is denied because of an exemption, the individual will be notified of the right to appeal that determination to the General Counsel within 30 days after receipt. Appeals will be determined within 20 working days.

10. Amend § 792.65 by revising paragraph (a)(1) to read as follows:

**§ 792.65 Fees.**

(a) \* \* \*

(1) For copies of documents provided, copy fees as stated in NCUA's current FOIA fee schedule; and

\* \* \* \* \*

11. Amend § 792.66 by revising the first sentence of paragraph (a), and the first two sentences of paragraph (b)(1), and the first sentence of paragraph (b)(2), and adding a new paragraph (b)(4) as follows:

**§ 792.66 Exemptions.**

(a) NCUA maintains four systems of records that are exempted from some provisions of the Privacy Act. \* \* \*

(b)(1) System NCUA-1, entitled "Employee Suitability Security Investigations Containing Adverse Information," consists of adverse information about NCUA employees that had been obtained as a result of routine U.S. Office of Personnel Management (OPM) security Investigations. To the extent that NCUA maintains records in this system pursuant to OPM guidelines that may require retrieval of information by use of individual identifiers, those records are encompassed by and included in the OPM Central system of records number Central-9 entitled, "Personnel Investigations Records," and thus are subject to the exemptions promulgated by OPM. \* \* \*

(2) System NCUA-8, entitled, "Investigative Reports Involving Any Crime or Suspicious Activity Against a Credit Union, NCUA," consists of investigatory or enforcement records about individuals suspected of involvement in violations of laws or

regulations, whether criminal or administrative. \* \* \*

\* \* \* \* \*

(4) System NCUA-13, entitled, "Litigation Case Files," consists of investigatory materials compiled for law enforcement purposes. Records in the Litigation Case Files system are used in connection with the execution of NCUA's legal and enforcement responsibilities. Because the system covers investigatory materials compiled for law enforcement purposes, it is eligible for exemption under subsection (k)(2) of the Privacy Act. 5 U.S.C. 552a(k)(2). The Litigation Case Files system is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f) of the Privacy Act. 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I) and (f). However, if an individual is denied any right, privilege, or benefit to which he would otherwise be entitled by federal law, or for which he otherwise would be eligible, as a result of the maintenance of such records, the records or information will be made available to him, provided the identity of a confidential source is not disclosed.

\* \* \* \* \*

12. Amend § 792.69 by revising the first sentence of paragraph (a) to read as follows:

**§ 792.69 Training and employee standards of conduct with regard to privacy.**

(a) The Director of the Office of Training and Development, with advice from the General Counsel, is responsible for training NCUA employees in the obligations imposed by the Privacy Act and this subpart. \* \* \*

\* \* \* \* \*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99-NM-364-AD; Amendment 39-11945; AD 2000-21-13]

RIN 2120-AA64

**Airworthiness Directives; Dornier Model 328-300 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all Dornier Model 328-300 series airplanes, that requires revising the Airplane Flight Manual. This action