

Proposed Rules

Federal Register

Vol. 72, No. 107

Tuesday, June 5, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 319

[Docket No. APHIS–2007–0061]

RIN 0579–AC40

Importation of Blueberries From South Africa, Uruguay, and Argentina With Cold Treatment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow the importation into the continental United States of fresh blueberries from South Africa and Uruguay under certain conditions. As a condition of entry, the blueberries would have to undergo cold treatment and would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country. This action would allow for the importation of blueberries from South Africa and Uruguay into the continental United States while continuing to provide protection against the introduction of quarantine pests. In addition, we are proposing to allow the use of cold treatment for blueberries imported into the United States from Argentina. This action would provide an alternative to the methyl bromide treatment that is currently required for blueberries imported from Argentina.

DATES: We will consider all comments regarding this proposed rule that we receive on or before July 20, 2007 and all comments regarding the information collection requirements associated with this proposed rule that we receive on or before August 6, 2007.

ADDRESSES: You may submit comments by either of the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov>, select “Animal and Plant Health Inspection

Service” from the agency drop-down menu, then click “Submit.” In the Docket ID column, select APHIS–2007–0061 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “User Tips” link.

Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0061, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0061.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Import Specialist, Commodity Import Analysis and Operation Staff, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organization (NPPO) of South Africa has requested that the Animal and Plant

Health Inspection Service (APHIS) amend the regulations to allow fresh blueberries (*Vaccinium* spp.) to be imported from South Africa into the continental United States. In addition, the NPPO of Uruguay has requested that APHIS amend the regulations to allow fresh blueberries (the highbush blueberries *Vaccinium corymbosum* L. and the rabbit-eye blueberries *Vaccinium virgatum* Aiton) to be imported from Uruguay into the continental United States. As part of our evaluation of South Africa’s and Uruguay’s requests, we prepared pest risk assessments (PRA) for each country, as well as a risk management document that covers both countries. For these risk assessments, we assumed that any blueberries imported into the United States would undergo minimal post-harvest fruit processing, which includes the commercial processes of culling, packing, and forced-air cooling, but no washing or other treatment. Copies of the PRAs and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the *Regulations.gov* Web site (see **ADDRESSES** above for instruction for accessing *Regulations.gov*).

The PRA prepared in response to South Africa’s request, titled “Qualitative Pathway-Initiated Risk Assessment of the Importation of Blueberry Fruits (*Vaccinium* species) from the Republic of South Africa into the United States” (April 2007), evaluates the risks associated with the importation of fresh blueberries into the continental United States from South Africa. The PRA and supporting documents identified one pest of quarantine significance, the Mediterranean fruit fly or Medfly (*Ceratitidis capitata*), present in South Africa that could be introduced into the United States via fresh blueberries. APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the risks posed by this plant pest. Therefore, we propose to require that the blueberries be subjected to cold treatment in accordance with schedule T107–a, which is described in § 305.16 of the phytosanitary treatments regulations in 7 CFR part 305.

Treatment schedule	Temperature (°F)	Exposure period (days)
T107-a	34 or below	14
	35 or below	16
	36 or below	18

This cold treatment schedule has been proven effective in treating the Medfly on imported fruit from South Africa.

The PRA prepared in response to Uruguay's request, titled "Importation of fresh highbush and rabbit-eye blueberry (*Vaccinium corymbosum* L. & *V. Virgatum* Aiton) fruit into the Continental United States from Uruguay" (April 2007), evaluates the risks associated with the importation of

fresh blueberries into the continental United States from Uruguay. The PRA and supporting documents identified two pests of quarantine significance, the Medfly and the South American fruit fly (*Anastrepha fraterculus*), that were selected for further analysis and determined to potentially present a risk of introduction into the United States via blueberries from Uruguay. APHIS has determined that measures beyond

standard port of entry inspection are required to mitigate the risks posed by these plant pests. Therefore, we propose to require that the blueberries be subjected to cold treatment in accordance with schedule T107-a-1, which is described in § 305.16 of the phytosanitary treatments regulations in 7 CFR part 305.

Treatment schedule	Temperature (°F)	Exposure period (days)
T107-a-1	34 or below	15
	35 or below	17

This cold treatment schedule has been proven effective in treating the Medfly, as well as several species of *Anastrepha*, including the South American fruit fly, on imported fruit from South America.

In addition to requiring cold treatment, we would limit the importation of fresh blueberries from South Africa and Uruguay to commercial shipments only and require that each shipment of fruit from South Africa and Uruguay be accompanied by a phytosanitary certificate issued by the NPPO of the importing country. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments are more prone to infestations because the commodity is often ripe to overripe and is often grown with little or no pest control. Commercial shipments, as defined in § 319.56-1, are shipments of fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Identification of a particular shipment as commercial is based on a variety of indicators, including, but not limited to, the quantity of produce, the type of packaging, identification of a grower or packinghouse on the packaging, and documents consigning the shipment to a wholesaler or retailer.

The proposed conditions described above for the importation of fresh blueberries from South Africa and Uruguay into the continental United States would be added to the fruits and vegetables regulations as a new

§ 319.56-2vv. In addition, we would also amend the table in § 305.2(h)(2)(i) of the phytosanitary treatments regulations to add entries for fresh blueberries from South Africa and Uruguay and to designate cold treatment schedule T107-a for South African blueberries and T107-a-1 for Uruguayan blueberries as approved treatments for the specific pests named in this document.

Argentina

The regulations currently allow blueberries from Argentina to be imported into the United States only after fumigation with methyl bromide using treatment schedule T101-i-1-1. This is an approved treatment schedule for mitigating the risks associated with the Medfly, which was found to be present in part of Argentina. In addition to the Medfly, the South American fruit fly is also present in Argentina. Previously, we did not have specific information that blueberry is a host of the South American fruit fly, but research has since demonstrated that blueberry is a host of both the Medfly and the South American fruit fly. Because treatment schedule T101-i-1-1 has been proven effective in treating the South American fruit fly as well as the Medfly, the risks associated with South American fruit fly have already been addressed through that treatment schedule. To reflect the identification of the South American fruit fly as a pest of blueberries from Argentina, we would amend the entry for blueberries from

Argentina in § 319.56-2x to include the South American fruit fly with the Medfly as a pest of blueberry fruit that requires mitigation unless the fruit is grown in a fruit fly-free area.

In May 2006, the NPPO of Argentina requested that APHIS allow the use of cold treatment as an alternative treatment to meet the United States entry requirements for blueberries from Argentina. After receiving this request, we reviewed the data supporting the request and determined that there is no statistical difference in the cold treatment susceptibility of the Medfly and the South American fruit fly when infesting various citrus cultivars. Based on that evaluation, we determined that cold treatment would also mitigate the pest risk associated with these fruit fly species in blueberries and would serve as an effective substitute for the methyl bromide treatment T101-i-1-1. Therefore, we are proposing to amend § 305.2(h) to provide for the use of cold treatment on blueberries from Argentina. This would be a more environmentally favorable option to the currently required methyl bromide fumigation treatment.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to allow the importation into the continental United States of fresh blueberries from South Africa and Uruguay under certain conditions. As a condition of entry, the blueberries would have to undergo cold treatment and would have to be accompanied by a phytosanitary certificate issued by the NPPO of the importing country. This action would allow for the importation of blueberries from South Africa and Uruguay into the continental United States while continuing to provide protection against the introduction of quarantine pests. In addition, we are proposing to allow the use of cold treatment for blueberries imported into the United States from Argentina. This action would provide

an alternative to the currently approved methyl bromide treatment.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 603 of the Act requires an agency to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the expected impact of a proposed rule on small entities, unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. APHIS has prepared this IRFA in fulfillment of this requirement. We welcome public comment on expected small-entity effects of the proposed rule.

The United States is the largest producer of blueberries, supplying more than half the world's production (55 percent). Canada follows with 28 percent of world supplies and Poland comes third with 10 percent of the world's blueberry fruit production.

Michigan, Maine, and New Jersey are the leading States in U.S. blueberry production. Combined, these three States produce more than half of all U.S. blueberries (table 1). Nine States account for 98 percent of U.S. production. Fresh blueberries require harvesting by hand, whereas blueberries destined for processing can be machine-harvested. The cost of farm labor is considerably higher in the United States than in many other countries.

TABLE 1.—U.S. PRODUCTION AND VALUE OF BLUEBERRIES FOR THE FRESH MARKET IN 2005 AND FARM ACREAGE IN 2002 BY MAJOR STATES

State	2005		2002	
	(metric tons)	(million dollars)	number of acres	number of farms
Michigan	29,937.1	\$83.5	17,274	590
Maine	26,988.7	39.0	293	116
New Jersey	20,411.7	55.5	7,468	240
Oregon	15,648.9	33.3	3,887	659
North Carolina	11,793.4	36.7	5,009	267
Georgia	11,793.5	31.8	4,451	408
Washington	8,890.4	19.2	2,569	289
California	4,127.7	40.6	827	97
Florida	2,358.7	32.8	1,646	343
Sum	131,950 (98%)	372.3 (98%)	43,424 (84%)	3,009 (47%)
Rest of United States	3,070.9	9.1	8,578	3,419
United States total	135,021.0	381.4	52,002	6,428

Sources: USDA/NASS New England, Oregon, and Washington field offices; North American Blueberry Council; Table 33—Berries Harvested for Sale, 2002 U.S. Census of Agriculture by State, pp. 496–497, USDA/NASS; and Table D–2. Blueberries: Commercial Acreage, Production, and Value, Fruit and Tree Nuts Situation and Outlook Yearbook, October 2006, USDA/ERS.

In 2005, the United States produced 135,021 metric tons of highbush blueberries destined for the fresh market, valued at \$381 million. In the United States, highbush blueberries are harvested from April to early October with the majority of the blueberries picked from mid-June to mid-August.

Between 1995 and 2005, total U.S. blueberry consumption increased by 47 percent, from 13 ounces to 20 ounces per person. Most of the increase has been in the fresh market with a doubling in fresh consumption, from 4.3 ounces per person in 1995 to 8.7 ounces in 2005.

Table 2 shows U.S. imports and exports of fresh blueberries for the past 3 years. The United States is a net importer, and our major foreign supplier of fresh blueberries (by value) is Canada. Annual U.S. imports of fresh blueberries averaged 29,469 metric tons between 2004 and 2006.

TABLE 2.—U.S. IMPORTS AND EXPORTS OF FRESH BLUEBERRIES, 2004–2006

Year	U.S. imports	U.S. exports	Net imports
(million dollars)			
2004	\$91.03	\$29.40	\$61.63
2005	109.82	45.60	64.22
2006	155.14	55.70	99.44
(metric tons)			
2004	28,887.30	15,183.80	13,693.50
2005	26,335.70	22,588.90	3,746.80
2006	32,601.50	22,952.30	9,649.20

Source: U.S. Dept. of Commerce, Bureau of Census, as reported by Global Trade Information Services.

Note: Based on the Harmonized Schedules 0810400028 and 0810400024.

Argentina has supplied about 3 percent of the U.S. imports of fresh blueberries, or 880 metric tons, over the last 3 years. In 2006, Argentina reported 4,000 acres of land devoted to blueberry production, a 35 percent increase since 2003.

The Uruguayan Government Statistics office indicates that Uruguay started producing blueberries in 2003, with 65 metric tons harvested that year. In the following 3 years, Uruguay produced 80, 120, and 200 metric tons, respectively. For 2007 through 2009, crop volumes of around 500, 1,200, and 2,000 metric tons are forecast.

The Government of Uruguay has indicated its intention to export between 200 and 1,200 metric tons of fresh blueberries annually for the next 3 years starting in 2007, with 200 metric tons shipped annually to the continental United States (an amount that exceeds Uruguay's total exports of fresh blueberries in recent years).¹ Even if this export target were met, imports from Uruguay would represent less than 1 percent of U.S. imports of fresh blueberries in 2006.

Uruguay's main export season for fresh blueberries is between November and April. During this season, the supply of fresh blueberries by U.S. producers is limited. Fresh blueberries are generally harvested in the United States by early May through the beginning of September. U.S. domestic shipments of fresh blueberries reach their highest volume between late June and mid-August.

APHIS does not have data on South African production of blueberry fruits (*Vaccinium* spp.). Foreign Agricultural Service statistics indicate that South Africa exported an annual average of 75 metric tons of *Vaccinium* spp. between 2000 and 2004. Specifically, in 2000 the Republic of South Africa exported 3 metric tons, then in the following 4 years, 90, 83, 86, and 109 metric tons, respectively. In sum, the quantities of fresh blueberry expected to be imported into the United States from Uruguay and the Republic of South Africa are small, representing less than 1 percent of U.S. imports and less than one-tenth of 1 percent of the United States' domestic supply (production plus imports minus exports). Moreover, blueberry production in these two countries takes place during our winter months; their blueberry shipments to the United States would largely compete with

blueberry imports from other countries. We do not expect the changes we are proposing would have a significant economic impact on U.S. entities. U.S. entities that could be affected by the proposed changes are domestic producers of fresh blueberries and wholesalers that import fresh blueberries. Businesses producing fresh blueberries are classified in the North American Industry Classification System (NAICS) within the category of Other Vegetable (except Potato) and Melon Farming (NAICS code 111219). The Small Business Administration's (SBA) small-entity definition for these producers is annual receipts of not more than \$750,000. Firms that would import fresh blueberry fruits from Uruguay and the Republic of South Africa are defined as small entities if they have 100 or fewer employees (NAICS code 424480, Fresh Fruit and Vegetable Merchant Wholesalers).²

In general, firms engaged in production or importation of agricultural commodities are predominantly small. We believe that most if not all of the businesses affected by the proposed rule would be small.

We do not know the exact number of U.S. producers of fresh blueberries. According to the 2002 Census of Agriculture for the States where blueberries are produced, there were at least 6,428 farms growing blueberries in 52,000 acres of land (table 1). The majority of these farms (84 percent) are located in nine States. We do not know the percentage of blueberry farms that produce blueberries for the fresh market. Also, we do not know their size, but in general, such entities are predominantly small. The United States Census does not report sales receipts by farm or any other unit. The average farm size in these nine States is 15 acres, whereas the average farm size in the remainder of States that grow blueberries is 2.5 acres. We welcome information that the fresh blueberry industry or general public may provide on the number and size of entities that could be affected by the proposed rule.

Executive Order 12988

This proposed rule would allow blueberries to be imported into the continental United States from South Africa and Uruguay and would provide an alternative treatment for blueberries from Argentina. If this proposed rule is adopted, State and local laws and regulations regarding blueberries

imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2007-0061. Please send a copy of your comments to: (1) Docket No. APHIS-2006-0061, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to allow the importation into the continental United States of fresh blueberries from South Africa and Uruguay under certain conditions. As a condition of entry, the blueberries would have to undergo cold treatment and would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country. This action would allow for the importation of blueberries from South Africa and Uruguay into the continental United States while continuing to provide protection against the introduction of quarantine pests.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

¹ Uruguay started exporting fresh blueberries in 2003, with an amount of 250 kilograms or 0.4 metric ton. The following 3 years, 2004-2006, Uruguay exported 3.8, 18.7 and 94.2 metric tons, respectively. Source: Uruguayan Government, Ines Ares (personal communication).

² The wholesale sector comprises two types of wholesalers: Those that sell goods on their own account and those that arrange sales and purchases for others for a commission or fee. Importers are included in both cases.

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: NPPOs, importers of blueberries.

Estimated annual number of respondents: 30.

Estimated annual number of responses per respondent: 276.

Estimated annual number of responses: 8,280.

Estimated total annual burden on respondents: 4,140 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual

number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

List of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests,

Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 305 and 319 as follows:

PART 305—PHYTOSANITARY TREATMENTS

1. The authority citation for part 305 would continue to read as follows:

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 305.2, the table in paragraph (h)(2)(i) would be amended as follows:

a. Under Argentina, by revising the entry for "Blueberry" to read as set forth below.

b. Under South Africa, by removing the entry for "Apple, grape, pear" and adding a new entry for "Apple, blueberry, grape, pear" in its place to read as set forth below.

c. In the entry for Uruguay, by adding an entry for "Blueberry" to read as set forth below.

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
Argentina			
	Blueberry	<i>Anastrepha capitata</i> .	<i>fraterculus</i> , <i>Ceratitis</i> CT T107-a-1 or MB T101-i-1-1.
South Africa	Apple, blueberry, grape, pear	<i>Ceratitis capitata</i>	CT T107-a.
Uruguay			
	Blueberry	<i>Anastrepha capitata</i> .	<i>fraterculus</i> , <i>Ceratitis</i> CT T107-a-1.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

4. In § 319.56-2x, the table in paragraph (a) would be amended by revising, under Argentina, the entry for "Blueberry" to read as follows:

§ 319.56-2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) * * *

Country locality	Common name	Botanical name	Plant part(s)
* Argentina	* Blueberry	* Vaccinium spp	* Fruit. (Treatment for South American fruit fly and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).
*	*	*	*

* * * * *

5. A new § 319.56–2vv would be added to read as follows:

§ 319.56–2vv Administrative instructions: conditions governing the importation of blueberries from South Africa and Uruguay.

Blueberries from South Africa (*Vaccinium* spp.) and Uruguay (*Vaccinium corymbosum* L. and *Vaccinium virgatum* Aiton) may be imported into the continental United States only under the following conditions:

(a) Blueberries from South Africa must be cold treated for *Ceratitis capitata* in accordance with part 305 of this chapter. Blueberries from Uruguay must be cold treated for *Ceratitis capitata* and *Anastrepha fraterculus* in accordance with part 305 of this chapter.

(b) Each shipment of blueberries must be accompanied by a phytosanitary certificate of inspection issued by the national plant protection organization of the importing country.

(c) The blueberries may be imported in commercial shipments only.

Done in Washington, DC, this 31st day of May 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–10818 Filed 6–4–07; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Bylaws

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA is proposing to reincorporate the Federal Credit Union (FCU) Bylaws into NCUA regulations. This change clarifies NCUA's ability to use a range of enforcement authorities, in appropriate cases, to enforce the FCU

Bylaws. In addition, NCUA is adding a bylaw provision on director succession, an issue it has previously addressed in legal opinions, and is revising the introduction to the Bylaws to conform it to these changes.

DATES: Comments must be received by August 6, 2007.

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. Follow the instructions for submitting comments.

- *E-mail:* Address to regcomments@ncua.gov. Include “[Your name] Comments on FCU Bylaws” 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.

Public inspection: All public comments are available on the agency's Web site at <http://www.ncua.gov/RegulationsOpinionsLaws/comments> as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library, at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to OGC Mail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: Elizabeth Wirick, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Credit Union Act (the Act) requires the NCUA Board to prepare bylaws that “shall be used” by FCUs and authorizes NCUA to enforce FCU Bylaws through charter suspension and liquidation. 12 U.S.C. 1758, 1766. Until 1982, the FCU Bylaws were incorporated by reference in NCUA's regulations. NCUA's authority to enforce bylaw violations through less severe administrative remedies then was clear because such violations could be viewed as a violation of NCUA's regulations, thus enabling NCUA to bring a variety of administrative enforcement actions to effect compliance in appropriate cases.

In 1982, the Bylaws were removed from the regulations as part of a general deregulatory effort. At that time, three separate sections of NCUA regulations incorporated the FCU Bylaws by reference. 12 CFR 701.2, 701.3, 701.14 (1982). Another section required NCUA approval of any bylaw amendments. 12 CFR 701.4 (1982). NCUA deleted two of the sections incorporating the Bylaws by reference, as well as the regulation requiring NCUA approval of amendments, in two final rules issued in 1982. 47 FR 23685 (June 1, 1982); 47 FR 46249 (Oct. 18, 1982).

These rules were one result of a comprehensive review of agency regulations NCUA undertook in the early 1980s in an effort to eliminate redundant or outdated requirements. The goal of this process was to reduce the number and complexity of NCUA regulations and delete guidance found in other publications. 47 FR 46249 (Oct. 18, 1982). The Bylaws were only one of several items deleted from incorporation by reference in the 1982 rules cited above. One of the rules also deleted the NCUA Accounting Manual and Data Processing Guidelines from incorporation by reference. 47 FR 23685 (June 1, 1982). The other also deleted references to chartering procedures contained elsewhere in NCUA guidance.