

# Rules and Regulations

Federal Register

Vol. 64, No. 118

Monday, June 21, 1999

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 930

[Docket No. FV99-930-1 FIR]

#### Tart Cherries Grown in the States of Michigan, et al.; Additional Option for Handler Diversion and Receipt of Diversion Credits

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, with a change, the provisions of an interim final rule adding a method of handler diversion to the regulations under the Federal tart cherry marketing order (order). Handlers handling cherries harvested in a regulated district may fulfill any restricted percentage requirement when volume regulation is in effect by diverting cherries or cherry products rather than by placing them in an inventory reserve. Under this additional method, handlers are allowed to obtain diversion certificates when marketable finished tart cherry products owned by them are accidentally destroyed. In addition, this rule continues in effect the removal of a paragraph in the regulations which limited diversion credit for exempted products to one million pounds each crop year. The order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin and is administered locally by the Cherry Industry Administrative Board (Board).

**EFFECTIVE DATE:** June 22, 1999.

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, F&V, AMS,

USDA, room 2530-S, P.O. Box 96456, Washington, DC 20090-6456, telephone: (202) 720-2491. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov. You may also view the marketing agreements and orders small business compliance guide at the following website: <http://www.ams.usda.gov/fv/moab.html>.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930) regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department or USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule continues to allow handlers to obtain diversion credit for finished marketable tart cherry products owned by them which are accidentally destroyed during the 1998-99 crop year (July 1, 1998, through June 30, 1999), and subsequent crop years. It also continues the removal of a provision from the regulation which limited diversion credit for exempted products to one million pounds for each crop year. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the

order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is not later than 20 days after the date of the entry of the ruling.

This rule continues in effect an additional method of handler diversion involving marketable finished tart cherry products which are accidentally destroyed. Handler diversion is authorized under section 930.59 of the order and, when volume regulation is in effect, handlers may fulfill restricted percentage requirements by diverting cherries or cherry products. Volume regulation is intended to help the tart cherry industry stabilize supplies and prices in years of excess production. The volume regulation provisions of the order provide for a combination of processor owned inventory reserves and grower or handler diversion of excess tart cherries. Reserve cherries may be released for sale into commercial outlets when the current crop is not expected to fill demand. Under certain circumstances, such cherries may also be used for charity, experimental purposes, nonhuman use, and other approved purposes.

Section 930.59(b) of the order provides for the designation of allowable forms of handler diversion. These include: Uses exempt under section 930.62; contributions to a Board approved food bank or other approved charitable organization; acquisitions of grower diversion certificates that have been issued in accordance with section 930.58; or other uses, including diversion by destruction of the cherries at the handler's facilities as provided for in section 930.59(c).

Section 930.159 of the rules and regulations under the order allows handlers to divert cherries by destruction of the cherries at the handler's facility. At-plant diversion of cherries takes place at the handler's facility prior to placing cherries into the processing line. This is to ensure that the cherries diverted were not simply an undesirable or unmarketable product of processing. The additional method for

handler diversion for finished tart cherry products accidentally destroyed should not be confused with at-plant diversion.

The Board unanimously recommended that handlers should receive diversion credit when marketable, finished cherry products are accidentally destroyed. For the purposes of this rule, products will be considered destroyed if they sustain damage which renders them unacceptable for use in normal market channels. For example, finished, marketable cherry products could be accidentally destroyed in a fire, explosion, or through freezer malfunction. To receive diversion credit under this added option, the Board recommended that the cherry products must: (1) Be owned by the handler at the time of accidental destruction; (2) be a marketable product at the time of processing; (3) be included in the handler's end of the year handler plan; and (4) have been assigned a Raw Product Equivalent (RPE) by the handler to determine the volume of cherries. In addition, the accidental destruction, as well as the disposition of the now unmarketable cherry product, must be verified by either a USDA inspector or Board agent or employee. For the purpose of proper control and oversight, the measures recommended by the Board are considered appropriate.

At the Board meeting, there was a discussion that accidents may occur at a handler's facility after the processing of cherries has taken place. Freezers have collapsed and malfunctioned rendering the finished product unmarketable. The Board noted that one of the goals of the volume regulation program is to control the flow of marketable fruit in the marketplace. Therefore, it was the Board's recommendation that finished marketable products accidentally destroyed should be allowed diversion credit.

Handlers wishing to obtain diversion certificates for finished tart cherry products owned by them which are accidentally destroyed must allow the disposition of the destroyed product to take place under the supervision of USDA's Processed Products Branch inspectors or a Board agent or employee. This will allow the Board to verify that the accidentally destroyed finished product was unmarketable and that it was disposed of properly.

Once diversion is satisfactorily accomplished, handlers receive diversion certificates from the Board stating the weight of cherries diverted. Such diversion certificates can be used to satisfy handlers' restricted percentage obligations.

In addition, this rule continues in effect the removal of a paragraph in the regulations which limited diversion credit for exempted products to one million pounds each crop year. Prior to the issuance of the interim final rule, section 930.159 provided for diversion credit of up to one million pounds of exempted products each crop year. Exempted products include products used in new product development and new market development. Exempted products also include those that were used to expand the use of new or different products or the sales of existing products, or those that are exported to countries other than Canada, Mexico, and Japan, but such cherry products do not include juice or juice concentrate.

The supplementary information in the rulemaking which implemented section 930.159 on January 6, 1998, (63 FR 399; interim final rule) and April 22, 1998, (63 FR 20012; final rule), stated that during its deliberations, the Board discussed its view that allowing diversion credit for exempt uses would provide adequate flexibility for individual handlers to ship cherries. The Board, however, recommended providing some restriction on the absolute volume of such allowable diversions until more experience with the program had been obtained, and that restriction was set at one million pounds. The one million pound limit for exempted product did not apply to those products receiving export diversions for the 1997-98 season. The Board continued reviewing the issue of what limits, if any, to impose on exempted products.

During the 1997 season, 2.7 million pounds of exempted products for new market and product development received diversion credit. In recent seasons, sales to export markets have risen dramatically. In 1997, export sales of 61.1 million pounds represented 379 percent of 1994 sales (16.1 million pounds). There was also an increase in export sales to those destinations exempt from volume regulation (countries other than Canada, Japan, and Mexico), rising from 12.2 million pounds to 48.7 million pounds. In view of the dynamics taking place in the cherry industry, and particularly the expanding markets and opportunities, the Board did not believe that the one million pound exemption should be continued. The removal of the one million pound limitation on exempted products should continue to encourage the further development of new markets and new tart cherry products. Therefore, the removal of section 930.159(f) continues in effect.

### **The Regulatory Flexibility Act and Effects on Small Businesses**

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this final regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) allows AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opts for such certification, but rather performs regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of tart cherries may be classified as small entities.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 1993/94 through 1997/98, approximately 89 percent of the U.S. tart cherry crop, or 281.1 million pounds, was processed annually. Of the 281.1 million pounds of tart cherries processed, 63 percent were frozen, 25 percent were canned, and 4 percent were utilized for juice. The remaining 8 percent were dried or assembled into juice packs.

The Board reported that for the 1997-98 crop year handlers received export diversion certificates for 48.7 million

pounds of cherries and 7.1 million pounds were diverted at handlers' facilities.

Section 930.59 of the tart cherry marketing order provides authority for handler diversion. Handlers handling cherries harvested in a regulated district may fulfill any restricted percentage requirement in full or in part through diversion of cherries or cherry products in a program approved by the Board, rather than placing cherries in an inventory reserve. Handlers can divert by destruction of the cherries at the handler's facility, making charitable donations and selling cherry products in exempt outlets or by redeeming grower diversion certificates obtained from growers who have diverted cherries by non-harvest, and who have been issued diversion certificates by the Board. This rule continues to provide for handler diversion certificates in cases where marketable, finished tart cherry products are accidentally destroyed, and thus, rendered unacceptable for the marketplace. Such diversion certificates can be used to satisfy the handler's restricted percentage obligation.

Handler diversion options enable handlers to either place cherries into an inventory reserve or select the diversion option most advantageous to their particular business operation. The diversion options allow handlers to minimize processing and storage costs associated with meeting restricted percentage obligations. Such cost savings may also be passed on to growers and consumers. Thus, this action continues to accomplish the purposes of the order and the Act by providing a means of increasing grower returns and stabilizing supplies with demand.

The impact of this rule will be beneficial to growers and handlers regardless of size. Continuing the additional diversion option will prevent financial hardships when marketable finished tart cherry products are destroyed by accident. An alternative to this rule would be to not grant diversion credit for such products. However, this is not in the best interest of the industry. The marketing order's volume regulation feature was designed to increase grower returns by stabilizing supplies with demand. Providing for handler diversion is one of the mechanisms employed to accomplish this goal, and this action broadens handler diversion options. Moreover, handlers may divert cherries by destroying them at their plants/facilities. Therefore, allowing diversion credit for products which are accidentally destroyed, is consistent

with the overall regulatory scheme established by the marketing order.

In addition, this rule continues in effect the removal of a paragraph in the regulations which limited diversion credit for exempted products to one million pounds each crop year. Previously, section 930.159 provided for diversion credit of up to one million pounds of exempted products each crop year, with the exception of exported products for the 1997 season. The Board had recommended providing some restriction on the absolute volume of exempted product diversions until more experience with the program had been obtained. The one million pound limitation for exempted products did not apply to diversion credit for exports for the 1997-98 season. The Board continued reviewing the issue of what limits, if any, to impose on exempted products.

During the 1997 season, 2.7 million pounds of exempted products for new market and product development received diversion credit. In recent seasons, sales to export markets have risen dramatically. In 1997, export sales of 61.1 million pounds represented 379 percent of 1994 sales (16.1 million pounds). There was also an increase in export sales to those destinations exempt from volume regulation (countries other than Canada, Japan, and Mexico), rising from 12.2 million pounds to 48.7 million pounds. In view of the dynamics taking place in the cherry industry, and particularly the expanding markets and opportunities, the Board does not believe that the one million pound exemption should be continued. The removal of the one million pound limitation on exempted products should continue to encourage the further development of new markets and new tart cherry products. Therefore, continuing the removal of the limitation will provide more flexibility to handlers by allowing them to expand markets and new product opportunities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581-0177. Included in the OMB approval is the Handler Reserve Plan and Final Pack Report which handlers must submit to utilize at-plant and exempt use diversion and the requirements for other reports related to handler diversion and handlers meeting their restricted percentage obligations. Handlers applying for diversion credit

for marketable finished tart cherry products accidentally destroyed do not have to submit an additional Handler Plan and Pack Report to the Board. Handlers can make changes in their previously submitted Handler Plan and Final Pack Report to account for product accidentally destroyed.

Accordingly, this rule will not impose any additional recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

The Board's meetings were widely publicized throughout the tart cherry industry and all interested persons were invited to attend them and participate in Board deliberations. Like all Board meetings, the September 1998 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Board itself is composed of 18 members, of which 17 members are growers and handlers and one represents the public. Also, the Board has a number of appointed committees to review marketing order issues and make recommendations.

The Board considered alternatives to its recommendations. These included not granting diversion credit and continuing to impose limitations on the volume of exempted product receiving diversion credit. However, these alternatives were determined as not being in the best interest of the industry.

An interim final rule concerning this action was published in the **Federal Register** on February 25, 1999 (64 FR 9265). Copies of the rule were mailed by the Board's staff to all Board members and cherry handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided a 60-day comment period which ended April 26, 1999. One comment was received from a tart cherry association representing tart cherry growers and processors in the State of Oregon.

The commenter asked several questions about the additional handler diversion option, and expressed the view that Board meetings are not well publicized. These comments are addressed below.

The commenter first asked whether the additional diversion option concerning accidentally destroyed tart cherry products applied to cherries harvested during the Summer of 1998

and whether such application is equitable.

The regulation applies to finished products accidentally destroyed during the 1998–99 crop year (July 1, 1998, through June 30, 1999), and thereafter. The interim final rule was effective February 6, 1999, and making the rule applicable to the whole crop year is not inequitable.

Only handlers in volume regulated districts are eligible to receive diversion credit. Allowing a handler to receive diversion credit for accidentally destroyed product satisfies part, or all, of the handler's restricted obligation and is consistent with the concept of volume regulation. The goal of volume regulation is to bring supplies in line with market needs, strengthen market conditions, and to increase grower returns.

The commenter also asked whether handlers with insurance who were compensated for their accidental loss would be eligible for diversion credit. Under this regulation, an insurance settlement received by a handler for product loss or damage does not prevent the handler from obtaining diversion credit.

Another issue raised by the commenter concerns the term "handler's facility" as it relates to obtaining diversion credit for product which is accidentally destroyed at a handler's facility. In this regard, the commenter raised questions about product accidentally destroyed while in a facility leased by a handler or in storage at a public cold storage warehouse. The commenter also asked whether the diversion credit applies to accidentally destroyed cherries before processing on the handler's premises, or to cherries or product destroyed while en route to a handler's facility. The diversion option in this regulation is intended to apply to finished marketable cherry products that are owned by a handler and are accidentally destroyed. It does not apply to cherries before processing which are accidentally destroyed.

The interim final rule published February 25, 1999 (64 FR 9265), stated that finished marketable product accidentally destroyed at a handler's facility may be granted diversion credit. It was the Board's intent that diversion credit be granted for finished marketable product, when the product is owned by the handler at time of accidental destruction. The physical location of the finished product at the time of accidental destruction is not a determining factor. Because of the commenter's questions, the Department has modified the regulatory provisions

to clarify the Board's intent. That is, handlers can receive diversion credit for accidentally destroyed finished marketable product as long as the product is owned by the handler at the time of destruction.

Finally, the commenter disagreed with the statement that Board meetings are widely publicized throughout the tart cherry industry and all interested persons are invited to attend them and participate in Board deliberations. The commenter stated that the Board office seems to communicate only through the "The Fruit Growers News" in the Michigan area or through direct mail to Board participants. The commenter mentioned that he was a member of the Board, and did not know if many of the things he received from the Board office go to all growers or handlers or just to the Board members and alternates.

The Board has and will continue to take appropriate action to provide broad notice of upcoming meetings to all handlers and Board members and alternate members. The Board sends meeting notices to all Board members and several tart cherry organizations throughout the production area. In fact, the Board sends a newsletter to all growers and handlers of record in the production area which further publicizes, among other things, upcoming Board meetings.

The commenter also mentioned that participation in Board meetings is challenging to all growers because a majority of them are held in Michigan, and that travel is extremely expensive from the west coast and very time consuming. The commenter also stated that the Board has not considered holding meetings at major hub city airports that are more accessible, and less expensive. According to the commenter, this situation limits the level of involvement by, and consideration for, smaller industry participants, such as the small, remote, and the independent members of the tart cherry industry.

On the matter of Board meeting location, the Board has to consider the cost of travel for all Board members because it pays travel expenses for all of its members. It is a considerable expense to the Board to hold the meetings outside of Michigan since 16 members and alternates of the 18 member Board are from the State of Michigan. The Board realizes the time spent in travel by Board members and producers and handlers throughout the production area. To make attendance at Board meetings easier while properly managing travel costs, the Board has made a commitment to hold the June 1999 marketing policy meeting in

Michigan and the September 1999 marketing policy meeting in Washington. The Board is also considering holding meetings outside the Michigan districts to allow producers and handlers to attend the meetings and cut down on travel time for those not located in Michigan. Recently, producer meetings were held in Pasco, Washington and Rochester, New York, to inform growers about proposed amendments to the order and the activities of the Board.

Based on the comments and the questions received, the limitation on the location of the accidental destruction is being removed. In the first sentence of paragraph (a), the phrase "at a handlers' facility" following the words "by diverting cherry products accidentally destroyed" is removed from this regulation. Also, removed in the first sentence of paragraph (d), is the phrase "at a handler's facility" following the words "Handlers may be granted diversion credit for diverting finished tart cherry products accidentally destroyed". The removal of these phrases is intended to clarify the intent of the regulation. In addition, to clarify the period of applicability, wording has been added to the regulation indicating that it applies to finished products accidentally destroyed during the 1998–99 crop year (July 1, 1998, through June 30, 1999), and thereafter.

After consideration of all relevant material presented, including the Board's recommendation, the comment received, and other information, it is found that finalizing this interim final rule, with modifications, as published in the **Federal Register** (64 FR 9265), will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule continues to relax requirements by providing an additional opportunity for handlers to receive diversion credit and meet their restricted obligations; and (2) the clarifications made to the provisions should be effective promptly to effectively carry out this program.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

**PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN**

Accordingly, the interim final rule amending 7 CFR part 930 which was published at 64 FR 9265 on February 25, 1999, is adopted as a final rule with the following change:

1. The authority citation for 7 CFR part 930 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. In § 930.159 paragraphs (a) and (d) are revised to read as follows:

**§ 930.159 Handler diversion.**

(a) *Methods of diversion.* Handlers may divert cherries by redeeming grower diversion certificates, by destroying cherries at handlers' facilities (at-plant), by diverting cherry products accidentally destroyed, by donating cherries or cherry products to charitable organizations or by using cherries or cherry products for exempt purposes under § 930.162, including export to countries other than Canada, Mexico and Japan. Once diversion has taken place, handlers will receive diversion certificates stating the weight of cherries diverted. Diversion credit may be used to fulfill any restricted percentage requirement in full or in part. Any information of a confidential and/or proprietary nature included in this application would be held in confidence pursuant to § 930.73 of the order.

\* \* \* \* \*

(d) *Diversion of finished products.* Handlers may be granted diversion credit for finished tart cherry products that are accidentally destroyed during the 1998–1999 crop year (July 1, 1998, through June 30, 1999), and thereafter. To receive diversion credit under this option the cherry products must be owned by the handler at the time of accidental destruction, be a marketable product at the time of processing, be included in the handler's end of the year handler plan, and have been assigned a Raw Product Equivalent (RPE) by the handler to determine the volume of cherries. In addition, the accidental destruction, and disposition of the product must be verified by either a USDA inspector or Board agent or employee who witnesses the disposition of the accidentally destroyed product. Products will be considered destroyed if they sustain damage which renders them unacceptable in normal market channels.

\* \* \* \* \*

Dated: June 14, 1999.

**Eric M. Forman,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–15625 Filed 6–18–99; 8:45 am]

BILLING CODE 3410–02–P

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 707**

**Truth in Savings**

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

**ACTION:** Final rule.

**SUMMARY:** The NCUA is adopting as a final rule without change the interim final amendments to part 707 issued by NCUA on December 29, 1998. Those amendments implemented certain statutory changes to the Truth in Savings Act (TISA). Specifically, they modified the rules governing indoor lobby signs, eliminated subsequent disclosure requirements for automatically renewable term share accounts with terms of one month or less, repealed TISA's civil liability provisions as of September 30, 2001, and permitted disclosure of an annual percentage yield (APY) equal to the contract dividend rate for term share accounts with maturities greater than one year that do not compound but require dividend distributions at least annually.

**DATES:** This rule is effective July 21, 1999.

**FOR FURTHER INFORMATION CONTACT:**

Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 29, 1998, the NCUA Board issued an interim final rule with request for comments amending part 707 of NCUA's regulations regarding truth in savings. 63 FR 71573 (December 29, 1998). Part 707 implements TISA. 12 CFR part 707. The purpose of part 707 and TISA is to assist members in making meaningful comparisons among share accounts offered by credit unions. Part 707 requires disclosure of fees, dividend rates, APY, and other terms concerning share accounts to members at account opening or whenever a member requests this information. Fees and other information also must be provided on any periodic statement credit unions send to their members.

TISA requires NCUA to promulgate regulations substantially similar to those promulgated by the Board of Governors of the Federal Reserve System (Federal Reserve). 12 U.S.C. 4311(b). In doing so, NCUA is to take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

The Federal Reserve issued final rules to implement certain statutory changes to TISA. One of these rules expanded an exemption from certain advertising provisions for signs on the interior of depository institutions, eliminated the requirement that depository institutions provide disclosures in advance of maturity for automatically renewable (rollover) accounts with a term of one month or less, and repealed TISA's civil liability provisions, effective September 30, 2001. 63 FR 52105 (September 29, 1998). The Federal Reserve also promulgated a final rule to permit depository institutions to disclose an APY equal to the contract interest rate for time accounts with maturities greater than one year that do not compound but require interest distributions at least annually. 63 FR 40635 (July 30, 1998). The interim final rule issued by NCUA on December 29, 1998 is substantially similar to the above rules issued by the Federal Reserve.

**Summary of Comments**

The NCUA Board received two comment letters regarding the interim final rule from credit union trade associations. Both commenters generally supported the interim final rule as drafted.

**Regulatory Procedures**

*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under \$1 million in assets). The NCUA has determined and certifies that this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

*Paperwork Reduction Act*

This final rule has no net effect on the reporting requirements in part 707.

*Executive Order 12612*

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-