documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the webinar, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: On August 13, 2020, DOE published in the **Federal Register** a NOPR and request for comment regarding proposals to amend the test procedures for showerheads, specifically proposals to amend the definition of a showerhead consistent with the most recent standard developed by the American Society of Mechanical Engineers in 2018. 85 FR 49284 (August 2020 NOPR). The August 2020 NOPR also announced a webinar but did not announce a webinar date.

This notice announces that DOE will hold a webinar to discuss the proposed amendments to the showerheads test procedures on Thursday, September 3, 2020. Additionally, on August 18, 2020, DOE received a request from PMI to extend the comment period for the NOPR by 30 days (*http://www.regulations.gov/docket?D=EERE-2020-BT-TP-0002-0011*). DOE announces that it is extending the comment period until September 30, 2020.

Public Participation

See section IV, ''Public Participation,'' of the August 2020 NOPR for additional information on submitting written comments. *Id.* at 85 FR 49295.

A. Participation in the Public Meeting (Webinar)

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=2&action=viewlive.* If you plan to attend the webinar, please notify the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *Appliance_Standards_Public_Meetings@ee.doe.gov.*

Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, by email to: *Appliance_Standards_Public_Meetings@ee.doe.gov.* The request and advance copy of statements must be received at least one week before the public meeting via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

Signing Authority

This document of the Department of Energy was signed on August 25, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 25, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–19015 Filed 8–28–20; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AF24

Fees Paid by Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to amend its regulation governing assessment of an annual operating fee to federal credit unions (FCUs). First, for purposes of calculating the annual operating fee, the proposed rule would amend the current rule to exclude from total assets any loan an FCU reports under the Small Business Administration's Paycheck Protection Program (PPP) or similar future programs approved for exclusion by the NCUA Board. Second, the proposed rule would delete from the current regulation references to the Credit Union System Investment Program and the Credit Union Homeowners Affordability Relief Program, both of which no longer exist. Third, the proposed rule would amend the period used for the calculation of an FCU's total assets. Currently, total assets are calculated using the FCU's December 31st Call Report of the preceding year. Under the proposed rule, total assets would be calculated as the average total assets reported on the FCU's previous four Call Reports available at the time the NCUA Board approves the agency's budget for the upcoming year, adjusted for any excludable programs as determined by the Board. Finally, the proposed rule also would make some minor technical changes.

The Board has separately published a document and requested public comment about the methodologies it uses for computing the Overhead Transfer Rate and setting the annual operating fee schedule for fees charged to FCUs. Members of the public are encouraged to comment about these methodologies by responding to the appropriate **Federal Register** document.

The notice relating to National Credit Union Administration Overhead Transfer Rate Methodology and Operating Fee Schedule Methodology is published elsewhere in this issue of the **Federal Register**.

DATES: Comments must be received on or before October 30, 2020.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF24, 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.
- *Fax:* (703) 518–6319. Include ''[Your Name]—Comments on Proposed Rule: Fees Paid by Federal Credit Unions'' in the transmittal.
- *Mail:* Address to Gerard S. Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal at *http://www.regulations.gov* as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518–6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: James Holm, Supervisory Budget Analyst, Office of the Chief Financial Officer, at (703) 518–6570; Kevin Tuininga, Associate General Counsel, or John H. Brolin, Senior Staff Attorney, Office of General Counsel, at (703) 518–6540; or by mail at 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Background

A. The NCUA Annual Budget and Fees Paid by FCUs

The NCUA charters, regulates, and insures deposits in FCUs and insures deposits in state-chartered credit unions that have their shares insured through the National Credit Union Share Insurance Fund (Share Insurance Fund). To cover expenses related to the NCUA's tasks, the Board adopts an annual budget in the fall of each year. The Federal Credit Union Act (FCU Act) provides two primary sources to fund the budget: (1) Requisitions from the Share Insurance Fund; [1] and (2) operating fees charged against FCUs.[2] The Board uses an allocation formula, the Overhead Transfer Rate (OTR), to determine the amount of the budget that it will requisition from the Share Insurance Fund.[3] Remaining amounts needed to fund the annual budget are charged to FCUs in the form of operating fees, based on each FCU's total assets.[4]

The FCU Act requires each FCU to, ''in accordance with rules prescribed by the Board [. . .] pay to the [NCUA] an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.'' [5] The fee must ''be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the [NCUA] in carrying out its responsibilities under the [FCU Act] and to the ability of [FCUs] to pay the fee.'' [6] The statute requires the Board to, among other things, ''determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.'' [7]

Section 701.6 of the NCUA's regulations governs operating fee processes.[8] The regulation establishes the following: (i) The basis for charging operating fees (*i.e.,* total assets of the FCU, with certain exclusions, as of December 31st of the preceding year); (ii) the notice the NCUA must provide to FCUs regarding the fees; (iii) coverage provisions providing certain exceptions for new FCU charters, conversions, mergers, and liquidations; and (iv) the assessment of administrative fees and interest for late payment, among other principles and processes.[9] Certain aspects of and adjustments to the operating fee process, such as the multipliers used to determine fees applicable to designated asset tiers, are not included in the NCUA's regulations. Instead, the Board generally adopts an operating fee schedule at an open meeting each year and publishes the schedule in the agency's annual budget and on its website.[10]

Section 701.6(a) sets out the basis on which the NCUA assesses the operating fee. Paragraph (a) provides that FCUs must pay the NCUA an annual operating fee based on the credit union's total assets.[11] The NCUA calculates an FCU's operating fee by multiplying the dollar amount of its total assets by a percentage set by the Board based on asset tiers after considering the expenses of the NCUA and the ability of FCUs to pay the fee. The term ''total assets'' for purposes of the operating fee presently includes all assets, with certain exclusions, reported on an FCU's Call Report as of December 31st of the previous fiscal year.

Operating fee payments are due from FCUs in April each year, and the NCUA prepares invoices using reported assets from the prior year's December Call Report.[12] In order to provide clarity to FCUs about their operating fee charges for the upcoming year, the Board typically approves the budget and sets the associated operating fee rates in November of the year before the operating fee is billed. Because the budget and operating fee rates are approved before December Call Report data is available, the Chief Financial Officer uses projected FCU asset growth to set the operating fee rates. Therefore, if actual total assets reported in December Call Reports are below the projected asset growth used for setting the operating fee rates, the NCUA will collect less in operating fee revenue than it requires to fund the budget. Conversely, if total assets reported in December Call Reports are greater than projected growth, the NCUA may collect more than is required.

[1] *See, e.g.,* 12 U.S.C. 1783(a) (making the Share Insurance Fund available ''for such administrative and other expenses incurred in carrying out the purpose of [Subchapter II of the FCU Act] as [the Board] may determine to be proper.'').

[2] 12 U.S.C. 1755(a) (''In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.'').

[3] *See, e.g.,* Request for Comment Regarding Revised Overhead Transfer Rate Methodology, 82 FR 29935 (June 30, 2017).

[4] 12 CFR 701.6(a).

[5] 12 U.S.C. 1755(a).

[6] 12 U.S.C. 1755(b).

[7] *Id.*

[8] 12 CFR 701.6.

[9] *Id.*

[10] In November 2015, the Board delegated authority to the Chief Financial Officer to administer the Board-approved methodology and to set the operating fees as calculated per the approved methodology each annual budget cycle beginning with 2016. *See* Board Action Memorandum on 2016 Operating Fee (Nov. 19, 2015), *https://www.ncua.gov/About/Documents/Agenda%20Items/AG20151119Item6a.pdf.* Since that time, the operating fee schedule has been published in the NCUA's annual budget. *See* 2020–2021 Budget Justification (December 12, 2019), *https://www.ncua.gov/files/agenda-items/AG20191212Item1b.pdf.*

[11] 12 CFR 701.6(a).

[12] *Id.*

B. The CARES Act and the SBA's Paycheck Protection Program

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, into law.[13] The law is designed to provide aid to the U.S. economy in the midst of the COVID–19 pandemic. The CARES Act authorized the Small Business Administration (SBA) to create a loan guarantee program, the Paycheck Protection Program (PPP), to help certain businesses affected by the COVID–19 pandemic meet payroll needs (including employee salaries, sick leave, other paid leave, and health insurance expenses), as well as mortgage, rent, and utilities expenses. Provided credit union lenders comply with the applicable lender obligations set forth in the SBA's interim final rule, the SBA will fully guarantee loans issued under the PPP, backed by the full faith and credit of the United States. Most federally insured credit unions are eligible to make PPP loans to members.[14] Under the CARES Act, PPP loans must receive a zero percent risk weighting for purposes of the NCUA's risk-based capital requirements.[15]

Following enactment of the CARES Act, the Board issued an interim final rule to make several amendments to the NCUA's regulations relating to PPP loans.[16] Of most relevance to this proposed rule, an April 27, 2020, interim final rule provided that if a covered PPP loan made by a federally insured credit union is pledged as collateral for a non-recourse loan that is provided as part of the Board of Governors of the Federal Reserve System's (FRB) PPP Liquidity Facility,[17] the covered loan can be excluded from a credit union's calculation of total assets for the purposes of calculating its net worth ratio. The exclusion of PPP loans pledged to the FRB's Liquidity Facility was comparable to an interim final rule issued by the other banking agencies with respect to their capital regulations,[18] which is consistent with the statutory requirement for the Board to prescribe a system of prompt corrective action that is, among other things, comparable to the section of the Federal Deposit Insurance Act that established prompt corrective action requirements for banks.

That change applied only to the calculation of the net worth ratio and not to other requirements or calculations in the NCUA's regulations that depend on a credit union's total assets. At present, an FCU must report the value of all of its PPP loans in its Call Reports, whether the FCU originated the loans, purchased them in the secondary market, or has pledged them to the FRB Liquidity Facility.[19] The value of PPP loans reported in Call Reports could therefore increase the total asset amounts the NCUA uses to compute the annual operating fees due. The Board is concerned that without a change to the NCUA's current operating fee regulation,[20] an FCU's PPP loans may subject the FCU to a higher operating fee, and this may impose a burden for participation in this program, or a disincentive to participate now that the program has been extended. As the PPP serves an important public purpose, the Board believes PPP loans warrant exclusion from total assets when determining operating fees to avoid these harms.

Under § 1755 of the FCU Act, the Board considers, among other things, FCUs' ability to pay assessments. The Board finds that an increase in an FCU's assets based on PPP loans—regardless of whether they are pledged to the PPP Liquidity Facility—poses no undue risk to the credit union's capital strength. Additionally, given the short-term and low-fee nature of PPP loans, FCUs that report increased total assets as a result of them are unlikely to have a corresponding increase in their ability to pay a higher assessment. Furthermore, excluding PPP loans from operating fee assessments makes the program more affordable to the participants and avoids imposing a burden based on participation in a program designed to provide an important public benefit. These benefits closely align with the mission of credit unions to support their member communities through trusted and affordable financial services.

Accordingly, based on this statutory analysis and application, this proposed rule has a broader scope of exclusion than the Board's April 27, 2020, interim final rule on PPP loans.

In addition, due to the possibility of additional economic stimulus through similar programs, the Board is proposing to incorporate a general statement in the regulation that contemplates the Board's exclusion of loans made under programs similar to the PPP from total assets when calculating operating fees. This change would provide the Board with flexibility to consider excluding assets related to future programs that may develop on short notice, particularly in cases where including such assets may create a disincentive for FCUs to participate. In a separate **Federal Register** document, the Board is requesting comment on the methodologies it uses to set the rate schedule for operating fees and how it determines the OTR. Members of the public are encouraged to comment about these methodologies by responding to the appropriate **Federal Register** notice. The notice relating to National Credit Union Administration Overhead Transfer Rate Methodology and Operating Fee Schedule Methodology is published elsewhere in this issue of the **Federal Register**.

II. Legal Authority

The Board is issuing this proposed rule pursuant to its authority under the FCU Act.[21] The FCU Act grants the Board a broad mandate to issue regulations governing both FCUs and, more generally, all federally insured credit unions. For example, section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.[22] Section 105 of the FCU Act requires FCUs to pay an annual operating fee to the NCUA.[23] In particular, section 105(b) provides:

The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this chapter and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the

[13] Public Law 116–136 (Mar. 27, 2020).

[14] Credit unions that are currently permitted to make loans under the SBA's 7(a) program are automatically approved to make PPP loans. Federally insured credit unions that are not current SBA 7(a) lenders can receive approval by submitting an application to the SBA, unless they are currently designated as being in troubled condition or are subject to a formal enforcement action that addresses unsafe and unsound lending practices. Non-depository financing providers, such as credit union service organizations, may qualify as a PPP lender subject to the requirements listed in the interim final rule.

[15] Public Law 116–135 § 1102(a)(2).

[16] 85 FR 23212 (Apr. 27, 2020).

[17] The program was named as both the PPP Lending Facility and the PPP Liquidity Facility when the Board approved the interim final rule. It is now named the PPP Liquidity Facility in FRB documentation on the program.

[18] 85 FR 20387 (Apr. 13, 2020).

[19] *See* SBA Procedural Notice, Guidance on Whole Loan Sales of Paycheck Protection Program Loans (May 1, 2020), *available at https://www.sba.gov/sites/default/files/2020-05/5000-20024.pdf.*

[20] 12 CFR 701.6(a).

[21] 12 U.S.C. 1751 *et seq.*

[22] 12 U.S.C. 1766(a).

[23] 12 U.S.C. 1755(a).

date or dates for the payment of the fee or increments thereof.[24]

Accordingly, the FCU Act provides the Board with broad discretion to decide how the amount of the operating fee is determined.

III. Summary of the Proposed Rule

The proposed rule would amend § 701.6(a) by excluding PPP loans from the FCU's total assets for purposes of calculating its operating fee. In particular, the proposal would amend current § 701.6(a) to provide, among other things, that the operating fee shall be based on the total assets of each FCU, less loans made under the Small Business Administration's Paycheck Protection Program.[25] Under this proposed rule, participating FCUs would continue to report their assets in the quarterly Call Report. For purposes of determining the operating fee, the NCUA will exclude reported PPP loans in the calculation of total assets. The NCUA believes this change will ensure that FCUs interested in making PPP loans do not bear greater financial burdens for doing so. The Board proposes to exclude PPP loans from the calculation of total assets even if the PPP loans are not pledged to the FRB PPP Liquidity Facility because PPP loans pose no undue risk to the FCU's capital strength and, due to their unique structure, do not increase an FCU's ability to pay a higher operating fee. Excluding all reported PPP loans when determining total assets also ensures FCUs that do not pledge their PPP loans to the FRB are treated consistently with those FCUs that do. Absent such consistent treatment, FCUs that do not pledge their PPP loans to the FRB would bear a larger relative cost burden of the operating fee compared to those FCUs that do pledge their PPP loans.

Excluding PPP loans from the calculation of total assets is similar to the amendment the Board made to the calculation of total assets in a 2009 final rule to encourage FCU participation in the Credit Union System Investment Program (CU SIP) or the Credit Union Homeowners Affordability Relief Program (CU HARP).[26] Investments in these programs were excluded from the computation of total assets because the instruments were guaranteed by the Share Insurance Fund, posed no credit risk to the participating credit unions, and the exclusion was intended to encourage a greater participation rate in programs with a clear public benefit. The CU SIP ended in 2010. Similarly, CU HARP investments were issued by the U.S. Central Federal Credit Union and all of those investments matured prior to that credit union's liquidation in 2012. Because these programs no longer exist and have no remaining investments, the Board proposes to amend current § 701.6(a) to delete references to them. However, given the potential for additional programs similar to the PPP to arise in the near future or as a result of future economic crises, the Board proposes adding regulatory language that would contemplate exclusion of assets under similar programs without requiring references to the specific program in the regulation. The Board anticipates making exclusions of similar future programs by issuing an order, which may be published in a letter to FCUs or a similar notice. The Board invites comment on this approach.

In addition, the Board is proposing to amend current § 701.6(a) to use the average of FCUs' four most-recently reported quarterly assets to calculate operating fees and to make conforming amendments to the regulatory text to ensure this same approach is applied to merged and recently converted FCUs. The Board is proposing to use an average of total assets because it believes that doing so will reduce the effect of seasonal fluctuation in the total assets of FCUs, and will provide more certainty to FCUs about their operating fee charges for the forthcoming year. The change to a four-quarter average of reported assets also reduces the risk that the Board will collect less in operating fee revenue than it requires if actual assets reported in FCUs' December Call Reports are below the asset growth assumption used to set the operating fee rates in the budget.

In particular, the proposal would amend current § 701.6(a) to provide, among other things, that the operating fee shall be based on the average of total assets of each FCU based on data reported in the preceding four Call Reports (as reported on NCUA Form 5300 for natural person FCUs and Form 5310 for corporate FCUs), or as otherwise determined pursuant to paragraph (b) of § 701.6. Specifically, when determining the operating fee rate and the invoice amounts due, the NCUA Board will use the average of FCUs' four most-recent Call Reports available at the time the Board approves the budget for the forthcoming year.

The Board anticipates that this change will have no impact on current billing practices for newly chartered FCUs, since these credit unions do not receive an operating fee invoice until the second year after they are chartered. The Board will continue its current practice of treating merged FCUs and conversions of non-FCUs into FCUs as a single entity for purposes of calculating the average total assets that are the basis for determining the amount of operating fees due. For purposes of calculating the average total assets of an FCU that converts from or merges with a federally insured state-chartered credit union (FISCU), the Board proposes to compute comparable quarterly total assets using the Call Report data in the agency's possession. For conversions to an FCU charter from entities not insured by the NCUA, the Board proposes to average assets based only on Call Reports filed by the time the Board finalizes its budget because the NCUA cannot validate the accuracy or consistency of other data sources that may be similar to NCUA Call Reports.

In circumstances where a conversion to an FCU charter from an entity not insured by the NCUA occurs in the fourth quarter of the year before the operating fee is due, no Call Report data will be available at the time the Board finalizes its budget, and the converted entity will therefore pay no operating fee in the year following conversion. While this approach would produce a different result based only on insured status prior to conversion for entities that are otherwise of the same FCU status after the conversion, the Board believes its lack of access to verified Call Report data for non-NCUA insured entities supports the distinction. In addition, the Board expects this will be a rare occurrence, with relatively small impact, as the maximum amount of forgone revenue is one quarter of reported assets for which a converted entity could be exempt from paying an operating fee.

While this discrepancy could be avoided if the Board continued its current practice of estimating December Call Report data as the sole point of reference for determining total assets for the operating fee, the Board believes the four-quarter average is more equitable on the whole because it can account for seasonal share account fluctuations that some FCUs experience based on the characteristics and transaction patterns engaged in by their fields of membership. As discussed above, the proposed four-quarter average approach also would eliminate the risk that the Board could over- or under-collect operating fees based on differences between its estimation of and actual December Call Report data.[27] The Board

[24] 12 U.S.C. 1755(b).

[25] 15 U.S.C. 636(a)(36).

[26] 74 FR 29934 (June 24, 2009).

[27] While the proposed regulatory language introducing section 701.6(b)(2)(i)(B) could be read

Continued

requests comment on this proposed approach.

With respect to mergers where an entity not insured by the NCUA merges into a continuing FCU, the same issue exists with respect to the Board's access to data comparable to the Call Report for periods prior to the merger date. Here again, the proposal would combine assets looking back four quarters for mergers involving two FCUs or where a FISCU merges into a continuing FCU. On the other hand, for mergers into FCUs of entities that are not insured by the NCUA, the proposed regulation would not require combination of assets prior to the merger date, since the NCUA does not collect asset data for entities it does not insure. Instead the continuing FCU would pay a fee based only on assets reported on its own Call Reports. Depending on the specific timing of when the merger occurred, this could result in multiple quarters where the assets acquired from the non-NCUA insured entity are not included in the calculated average assets used to bill the continuing FCU. For the same reasons expressed above with respect to conversions, the Board believes the benefits of the four-quarter average outweigh the different treatment for mergers with FISCUs compared to mergers with entities not insured by the NCUA. The Board also invites public comment on this aspect of the proposal.

With respect to purchase and assumption transactions, the regulation presently designates that they will be treated as mergers in circumstances where an FCU purchases all or essentially all of the assets of another credit union. In this proposed rule, the Board retains that language, but requests comment on alternative approaches the Board may wish to consider. The Board acknowledges that, in some circumstances, determining whether a purchase and assumption included all or essentially all assets could be a difficult determination.

The Board also proposes some technical changes to existing rule language. First, the proposal clarifies that the NCUA will not issue refunds of operating fees to FCUs that convert to any other type of charter, not just a state-charter. This ensures the same treatment for a conversion to a mutual savings bank or any other charter type. The Board also proposes to remove the language ''in the year in which the conversion takes place'' from this provision, as a refund is never provided to any converting FCU, regardless of timing. The Board proposes the same changes to the rule text on refunds in the context of mergers.

In addition, the Board proposes to expand the situations expressly covered in the regulation to include conversions and mergers involving entities not insured by the NCUA. Such transactions could involve privately insured state-chartered credit unions or banking institutions. To support this expansion, the proposed regulatory language introduces the phrase ''entity not insured by the NCUA.'' In the language specifying that certain purchase and assumption transactions will be treated as mergers, the Board proposes to change the term ''credit union'' to ''depository institution'' to clarify that a purchase and assumption involving a bank, for example, would be treated in the same manner. Finally, the proposal would divide paragraph (b) of the regulation into additional subparagraphs to improve readability. The Board invites comments on these technical changes as well.

IV. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include federally insured credit unions with assets less than $100 million) and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule. The proposed rule would make a technical change to the period for measuring total assets for calculating the Operating Fee. However, the Board does not believe the impact will disproportionally impact small credit unions such that a regulatory flexibility analysis is required. First, small credit unions are still required to report assets on a quarterly basis, and the regulation only increases the number of quarters the NCUA will consider in adjusting the operating fee. Nor does the exclusion of PPP loans from assets increase reporting requirements, as the NCUA already has the information necessary to make that exclusion. Finally, although exclusion of PPP loans will decrease fee amounts for some small credit unions, the Board does not believe the change will amount to a significant impact on a substantial number of small entities. Accordingly, the NCUA certifies that the proposed rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new or amends existing information collection requirements.[28] For the purpose of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The proposed rule does not contain information collection requirements that require approval by OMB under the PRA.[29]

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the Executive Order. This proposed rulemaking would not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the Executive Order.

D. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[30]

List of Subjects in 12 CFR Part 701

Credit unions, Low income, Nonmember deposits, Secondary capital, Shares.

By the National Credit Union Administration Board on July 30, 2020.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the Board proposes to amend 12 CFR part 701 as follows:

to require an entity not insured by the NCUA that converts to a FCU charter in the fourth quarter to pay a fee in the year following conversion, the lack of available Call Report data prior to the date the Board adopts the budget would preclude a fee in that scenario.

[28] 44 U.S.C. 3507(d); 5 CFR part 1320.

[29] 44 U.S.C. Chap. 35.

[30] Public Law 105–277, 112 Stat. 2681 (1998).

PART 701—Organization and Operations 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, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. In § 701.6 revise paragraphs (a) and (b) to read as follows:

§ 701.6 Fees paid by Federal credit unions.

(a) *Basis for assessment.* Each calendar year, or as otherwise directed by the NCUA Board, each federal credit union shall pay an operating fee to the NCUA for the current fiscal year (January 1 to December 31) in accordance with a schedule fixed by the Board from time to time.

(1) *General.* The operating fee shall be based on the average of total assets of each federal credit union based on data reported in NCUA Forms 5300 and 5310 from the four quarters immediately preceding the time the Board approves the agency's budget or as otherwise determined pursuant to paragraph (b) of this section.

(2) *Exclusions from total assets.* For purposes of calculating the operating fee, total assets shall not include any loans on the books of a natural person federal credit union made under the Small Business Administration's Paycheck Protection Program, 15 U.S.C. 636(a)(36), or any similar program approved for exclusion by the NCUA Board.

(b) *Coverage.* The operating fee shall be paid by each federal credit union engaged in operations as of January 1 of each calendar year in accordance with paragraph (a), except as otherwise provided by this paragraph.

(1) *New charters.* A newly chartered federal credit union will not pay an operating fee until the year following the first full calendar year after the date chartered.

(2) *Conversions.*

(i) In the first calendar year following conversion:

(A) A federally insured state-chartered credit union that converts to a federal credit union charter must pay an operating fee based on the average assets reported in the year of conversion on NCUA Forms 5300 or 5310 from the four quarters immediately preceding the time the Board approves the agency's budget in the year of conversion.

(B) An entity not insured by the NCUA that converts to a federal credit union charter must pay an operating fee based on the assets, or average thereof, reported on NCUA Forms 5300 or 5310 for any one or more quarters immediately preceding the time the Board approves the agency's budget in the year of conversion.

(ii) A federal credit union converting to a different charter will not receive a refund of any operating fees paid to the NCUA.

(3) *Mergers.*

(i) In the first calendar year following merger:

(A) A continuing federal credit union that has merged with one or more federally insured credit unions must pay an operating fee based on the average combined total assets of the federal credit union and any merged federally insured credit unions as reported on NCUA Forms 5300 or 5310 in the four quarters immediately preceding the time the Board approves the agency's budget in the merger year.

(B) For purposes of this paragraph, a purchase and assumption transaction where the continuing federal credit union purchases all or essentially all of the assets of another depository institution shall be deemed a merger.

(ii) A federal credit union that merges with a federal or state-chartered credit union, or an entity not insured by the NCUA, will not receive a refund of any operating fee paid to the NCUA.

(4) *Liquidations.* A Federal credit union placed in liquidation will not pay any operating fee after the date of liquidation.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0768; Airspace Docket No. 18–AWP–25]

RIN 2120–AA66

Proposed Amendment of Class D and E Airspace; Truckee, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace, designated as an extension to Class D or Class E surface airspace, at Truckee-Tahoe Airport. This action also proposes to modify Class E airspace extending upward from 700 feet above the surface. Lastly, this action proposes an administrative correction to all of the airspace's legal descriptions. This action would ensure the safety and management of instrument flight rule (IFR) operations at the airport.

DATES: Comments must be received on or before October 15, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0768; Airspace Docket No. 18–AWP–25, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend the Class D and Class E airspace