

Proposed Rules

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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52, and 100

Revision of 10 CFR Parts 50, 52 and 100; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission staff will meet with the staff of the Nuclear Energy Institute (NEI) and other industry representatives to hear a clarification of industry comments on the non-seismic aspects of the proposed revision of 10 CFR parts 50, 52 and 100 and associated guidance documents.

DATES: October 19, 1995, 1:00 p.m.

ADDRESSES: Two White Flint North, 11145 Rockville Pike, Conference Rooms T-10A1 and T-10F3, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Soffer, Accident Evaluation Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-6574.

SUPPLEMENTARY INFORMATION: Proposed revisions to 10 CFR parts 50, 52, and 100 were published for public comment on October 17, 1994 (59 FR 52225). The availability of draft guidance documents was published on February 28, 1995 (60 FR 10810). The public comment period ended May 12, 1995. The proposed revision to 10 CFR parts 100 primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and earthquake engineering considerations of reactor siting. The purpose of this meeting is for the NRC staff to hear, at the industry's request, a clarification of industry comments on the source term and dose consideration aspects of the proposed rule.

Dated at Rockville, Maryland, this 28 day of September, 1995, for the Nuclear Regulatory Commission.

M. Wayne Hodges,

*Director, Division of Systems Technology,
Office of Nuclear Regulatory Research.*

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Field of Membership and Chartering Policy

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

ACTION: Proposed Amendments to Interpretive Ruling and Policy Statement 94-1 ("IRPS 95-2").

SUMMARY: The NCUA Board is proposing to amend its policies so that senior citizen and retiree groups will be required to meet the same conditions as other associational groups in order to qualify for a federal credit union charter or addition to an existing charter through a field of membership amendment. The Board is also proposing five technical amendments to clarify operational issues. The amendments clarify: The application of field of membership requirements to mergers; the streamlined expansion procedure; the documentation requirements for low-income communities; the use of surveys to support a community common bond; and appeal procedures.

DATES: Comments must be postmarked or received or posted on NCUA's electronic bulletin board by December 4, 1995. Do not fax and send by U.S. Mail.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314 or via NCUA's electronic bulletin board to Becky Baker at 703-518-6480.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

The Senior Citizen and Retiree Association Policy

In 1984, NCUA adopted a policy that encouraged federal credit unions (FCUs)

to accept local senior citizens and retirees through the formation of associations. The only requirement for adding these associations to a credit union charter was a written request from the FCU to the NCUA; no request from the group or copy of the associations charter or bylaws was necessary. This policy resulted in many FCUs creating and adding senior citizen/retiree associations to their charters. Subsequent policy statements, including IRPS 94-1 (the Chartering Manual), continued this policy. 59 FR 29066 (June 3, 1994).

In 1994, two bank trade associations and six Texas commercial banks filed suit against Communicators FCU, Houston, Texas, as a result of several additions to the FCUs field of membership. The suit challenged, among other additions, the 1994 addition of a senior citizen/retiree group formed solely for the purpose of acquiring credit union service. While upholding the other additions, the court vacated the addition of the senior citizen/retiree association and permanently enjoined NCUA from adding any similar associations to the FCU. *Texas Bankers Association, et al. v. NCUA, et al.*, 1995 WL 328319 (D.D.C., May 31, 1995) (the "Communicators FCU" decision).

An informal survey of credit unions with *Communicators FCU*-like senior citizen/retiree associations in their charters conducted by NCUA's regional office in Austin, Texas found that only a small percentage of potential members of such associations actually join the credit unions. The Board believes that the current policy may not sufficiently promote NCUA's goal of making quality credit union service available to all persons who wish to have it. It is also apparent that continuing the current policy may leave some FCUs exposed to costly litigation. Although the court's order applies only to Communicators FCU, the Board is reviewing the senior citizen/retiree policy and is now proposing to change that policy after considering public comment.

Proposed Policy

The Board is proposing to modify its senior citizen/retiree policy to require such groups to meet normal associational common bond requirements before seeking to join or charter an FCU. In determining whether

a group satisfies this common bond requirement, NCUA will consider the totality of the circumstances, such as whether the members pay dues, have voting rights, hold office, hold meetings, whether there is interaction among members and whether the group has its own bylaws. See, Chapter 1, Section II.B. of the Chartering Manual, 59 FR at 29076. Provided operational area requirements are met, senior citizen/retiree associations formed for purposes other than seeking credit union service will then qualify to join an existing FCU. An FCU may still assist a senior citizen group to form an association that will qualify under the Chartering Manual. Accordingly, the Board is proposing to eliminate the section of IRPS 94-1 which permits *Communicator FCU*-like senior citizen/retiree associations to join FCUs, Chapter 1, Section V.B of the Chartering Manual, 59 FR 29082.

The Board is requesting comment on this proposal as well as how to address existing senior citizen/retiree groups in other FCU's fields of membership that do not meet the proposed characteristics of an association. The Board requests comment on the following proposed treatment of existing groups. First, FCUs that currently have a senior citizen/retiree group in their field of membership and wish to continue to add members from this group must ensure that the group meets the normal associational common bond requirements. Many of these groups may already meet the proposed requirements. The examination program will monitor compliance. Second, no new group members may join an FCU that does not have the characteristics of an association. In this case, the group should be deleted from the FCUs charter. This will also be monitored through the exam process. However, if the FCU has adopted the once a member, always a member bylaw, it could continue to serve members that had joined based on their membership in the senior citizen/retiree group.

Until the Board approves a final policy, it is continuing its moratorium on FCUs adding self-created senior citizen/retiree groups to their field of membership. The moratorium has no effect on groups that are already in an FCU's field of membership and it does not apply to the addition of senior citizen groups that have the characteristics of an association as defined in the Chartering Manual, 59 FR at 29076.

Low-Income Associations

The Board is also considering the possible effects of the *Communicators*

FCU decision on low-income group additions. Congress and the Board have long recognized that special efforts must be made for those who are attempting to serve the needs of persons of limited means. IRPS 94-1 provided new methods for credit unions to serve low-income persons with the establishment of two new policies. The first policy permitted any occupational, associational, multiple group or community FCU to include in its field of membership, without regard to location, communities satisfying the low-income definition of § 701.32 of NCUA's Regulations. The second policy allowed any FCU to add associational groups of low-income persons to their fields of membership. Current policy allows low-income groups to be formed solely for the purpose of obtaining credit union service without meeting the standard characteristics of an association.

The Board proposes that FCUs continue to be allowed to add low-income groups formed solely for the purpose of seeking credit union service. NCUA defines as "low-income" persons earning less than 80 percent of the average for all wage earners and persons whose annual household income falls at or below 80 percent of the median household income for the nation. 12 CFR 701.32(d)(2). The FCU Act was enacted "to make more available to people of small means credit for provident purposes through a national system of cooperative credit." 12 U.S.C. 1751. Congress established a special segment of credit unions serving predominantly low-income members. 12 U.S.C. 1752(5). Congress also established and funded a Community Development Revolving Loan Fund for Credit Unions, designed to help, through loans to credit unions serving predominantly low-income persons, in providing "basic financial and related services" to low-income persons and in "stimulating economic activities * * * which will result in increased income, ownership and employment opportunities for low-income residents." 12 CFR 705.2(a). See also, 12 U.S.C. 1766(k) (giving the Board authority over the Community Development Revolving Loan Fund for Credit Unions). The Board believes that the current low income credit union program continues to serve an important governmental purpose and is not proposing any changes to its low-income association policy.

Technical Changes

The Board is proposing five technical amendments to its policy to clarify operational issues. The amendments

address: (1) The application of field of membership rules to credit union mergers; (2) the use of streamlined expansion procedure; (3) the documentation requirements for low-income community credit unions as well as low-income additions; (4) the use of surveys to support a community charter; and (5) appeal procedures.

Mergers

A. *Operational Area*. The Board wishes to clarify how it applies operational area and field of membership requirements to mergers. NCUA's field of membership expansion rules apply to mergers where the continuing credit union is a federal charter. If the merging credit union is state chartered, the field of membership rules for conversions from state to federal charter also apply. Chapter 2, Section III.A, Chartering Manual, 59 FR at 29086. The following is an explanation of how field of membership expansion, and particularly operational area, requirements apply in the merger context.

For each group in the merging credit union's field of membership, there are two means of merging into an occupational, associational or multiple group FCU. First, if the merging group is part of an occupational or associational common bond which constitutes a majority of the continuing credit union's field of membership, the group may be added regardless of location. These are called "common bond additions." For any other occupational or associational common bond, the group must be within the credit union's operational area. These are commonly called "select group additions." A "select group" can also be added if it is within the operational area of a planned service facility of the continuing credit union provided:

- * The planned facility begins operation shortly after the group is added; and
- * The current field of membership constitutes a significant portion of the total field of membership to be served initially by the proposed facility. Although the addition of a new select group is not enough to justify a planned service facility, it is permissible to include new groups as partial justification for such a facility.

Chapter 2, Section II.A.1 of the Chartering Manual, 59 FR at 29085. Mergers will usually fall into either the common bond addition or select group addition categories, but some may fall into both. Field of membership requirements are met for each merging group only if the group could have been added to the continuing credit union without the benefit of the merger. The continuing credit union must analyze

each group in the merging credit union's field of membership as if the continuing credit union was expanding its own field of membership without a merger. For those groups from the merging credit union that do not meet operational area requirements, only the members of record will be transferred to the continuing credit union. Merger applicants must provide NCUA with their own analysis of how the proposed field of membership conforms to the requirements set forth in the Chartering Manual.

The Board is seeking comment on the application of operational area requirements to mergers involving select group additions. Specifically, in addition to welcoming comment on the above analysis, the Board requests comment on whether mergers should be further limited to credit unions which primarily serve groups in the same geographic location. If so, the continuing credit union would only be permitted to continue to serve groups in that geographic location.

B. Views of Overlapped Credit Unions. The Chartering Manual does not require the Region when it reviews the merger plan to apply an overlap analysis to a group in a discontinuing credit union's field of membership that has service available from another credit union. The Board requests comment on whether such an analysis is necessary and whether an affected credit union should be notified of the merger and be given an opportunity to object to the continuing credit union retaining the overlapped group in its field of membership.

The Board also requests comment on whether credit unions that may be adversely affected by the merger should have the right to appeal the Regional Director's determination. An appeal after the merger is approved may pose administrative and procedural difficulties. Because of these potential problems, the Board is requesting comment on whether it should establish a formal process for credit unions to comment on a merger prior to the Regional Director making a determination. One procedure would be to require the merging credit unions to notify all affected credit unions of the proposed merger. Credit unions would have 30 days from receipt of the notification to send written comments regarding their views to the Regional Director. Only after consideration of the comments would the Regional Director make a determination.

C. Waivers. An operational area waiver procedure is available when a state-chartered credit union is merged into an FCU "on a proper showing that

the [continuing] credit union will continue to be able to provide quality service to its current field of membership as a federal credit union." Chapter 2, Section III.A, 59 FR at 29086. A waiver is discretionary on the part of NCUA and permits groups already receiving quality credit union services, who are located outside of the credit union's operational area, to continue to have credit union service after the merger. It is the responsibility of the merger applicants, not NCUA, to provide an adequate basis for a waiver. Absent any waivers, only members of record of those groups that do not meet operational area requirements may be transferred to the continuing credit union. Finally, operational areas requirements do not apply in emergency mergers. 12 U.S.C. 1785(h).

Streamlined Expansion Procedure ("SEP")

SEP was adopted by the Board in IRPS 94-1 and permits well operated FCUs to add small groups of less than 100 persons with an occupational common bond without prior NCUA approval. The group must be located within 25 miles of one of the FCU's service facilities and have made a written request to the FCU for service. In general, the group must not have credit union service currently available. The Board is proposing three clarifications to the SEP program. First, an FCU may use SEP if the only other credit union service available is from a community credit union. NCUA does not afford overlap protection to a community credit union when it is being overlapped by an occupational group. Chapter I, IV.B.1, Chartering Manual, 59 FR at 29080. Second, consistent with standard field of membership expansions, the group as a whole will be considered to be within a credit union's 25 mile limit when: a majority of the group's members live, work, or gather regularly within the 25 mile limit; the group's headquarters is located within the 25 mile limit; or the group's "paid from" or "supervised from" location is within the 25 mile limit. Third, if an FCU has SEP in its charter and merges into a credit union without SEP, the continuing credit union must submit a charter amendment and receive NCUA approval if it wishes to use SEP. This can be accomplished as part of the merger process. The Board is proposing to amend the Chartering Manual to incorporate all three clarifications.

Documentation Requirements to Establish Low-Income Services

Generally, a low-income credit union is chartered as a community or associational credit union. To further the interest of making credit union service available to persons in low-income communities, NCUA also permits any occupational, associational, multiple group, or community FCU to include in its field of membership, without regard to location, communities satisfying the low-income definition of § 701.32 of NCUA's Regulation. The Board believes that any low-income community requesting either a new charter or inclusion in an existing field of membership expansion must meet the requirements of the Chartering Manual for demonstrating a community common bond, i.e., the geographic area's boundaries must be clearly defined; and the charter applicant must establish that the area is recognized as a distinct "neighborhood, community or rural district." Chapter 1, Section II.C.1, 59 FR at 29077. In many cases, a low-income community already has the common interest and characteristic by lacking the basic financial services found in more affluent communities. The Board is proposing that for new low-income charters or community expansions, the Regional Director will decide what documentation satisfies the community common bond requirement. Such documentation must clearly define the area's geographic boundaries and whether the area is recognized as a distinct neighborhood, community or rural district.

Community Charters

Many credit unions use surveys to demonstrate the need for a community charter. A survey of the residents and employees of the area often indicates whether there is interest in credit union service. Although surveys are useful in demonstrating whether a community exists, they are not required if other evidence is more relevant or demonstrates the sentiment of the community. Consequently, the Board is proposing to amend the IRPS to clarify that surveys are not always required to demonstrate a community charter.

Procedures for Appealing Chartering and Field of Membership Determinations

IRPS 94-1 did not articulate any timeframes for an appeal of a Regional Director's decision. In order to deal with appeals expeditiously, the Board is proposing that all appeals of the Regional Director's determination be made within 60 days of his/her

decision. The Board is also requesting comment on whether there should be a time limit on the Board to render a decision on an appeal.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The changes to NCUA policy resulting from the adoption of these proposed amendments to the IRPS would not have a significant economic impact on a substantial number of small credit unions. The changes are either legally required or simply clarify existing policy. Accordingly, the Board determines and certifies that this proposed rule does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Act analysis is not required.

Paperwork Reduction Act

The proposed amendments to IRPS 94-1 do not impose any additional paperwork requirements.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed amendments apply to federal credit unions as well as state chartered credit unions that seek to become federal credit unions. Therefore, the actions will not affect state interests.

List of Subjects in 12 CFR Part 701

Chartering, Conversions, Credit union, Field of membership addition, Mergers.

By the National Credit Union Administration Board on September 28, 1995.

Becky Baker,
Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 701, by amending IRPS 94-1 as follows:

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. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798.

2. Section 701.1 is revised to read as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration practice and procedure concerning chartering, field of membership modifications, and conversions are set forth in Interpretive Ruling and Policy Statement 94-1—Chartering and Field of Membership Policy (IRPS 94-1), as amended by IRPS 95-2. Both IRPS are incorporated into this regulation.

Note: Neither the amendments nor the interpretive ruling and policy statement will appear in the Code of Federal Regulations.

3. Chapter 1, Section II.C.2 is revised to read as follows:

II.C.2—Special Documentation Requirements

Information to support that the area chosen represents one well-defined area, distinguishable from the immediate surrounding areas, includes:

- Political jurisdictions.
- Major trade areas (shopping patterns).
- Traffic flows.
- Shared/common facilities (for example, educational, medical, police and fire protection, school district, water, etc.).
- Organizations/clubs whose membership is made up exclusively of persons within the area.
- Newspapers or other periodicals published for and about the area.
- Census tracts.
- Common characteristics and background of residents (for example, income, religious beliefs, primary ethnic groups, similarity of occupations, household types, primary age group, etc.).
- History of area.
- In general, what causes the chosen area and its residents to be distinguishable from the immediate surrounding areas and residents—some examples are old, well-established ethnic neighborhoods, planned communities and small/rural towns or rural counties.

The following information must be provided to support a need for a community credit union or community field of membership expansion:

- A list of credit unions presently in the area and those credit union's positions regarding a new charter or field of membership expansion; and
- A list of other financial institutions (for example, banks, savings and loan associations) that service the area.
- Written documentation reflecting support for the application for the charter, field of membership expansion or conversion to a community credit

union may be in the form of letters, surveys, studies, pledges, or a petition. Other types of evidence may also be acceptable. If a survey is used it should reflect the following:

- For the residents of the community:
 - Approximate number contacted
 - Number in favor of the credit union
 - Number against the credit union
 - Number who will join the credit union
 - Number who have pledged initial and/or systematic savings and amount of pledges
- For the employers in the community:
 - Number of area employers and number of employees
 - Number contacted
 - Number in favor of the credit union
 - Number against the credit union
 - Number willing to provide payroll deductions to the credit union
 - Number willing to provide other type(s) of support to the credit union
- For community organizations (including churches):
 - Number in area and number of members
 - Number contacted
 - Number in favor of the credit union
 - Number against the credit union
 - Number willing to provide some type of support to the credit union, i.e., advertising facilities, etc.
 - Letters of support from area civic leaders

If the community is also a recognized legal entity, it may be served as, or be included in, the field of membership—for example, "DEF Township, Kansas" or "GHI County, Minnesota."

4. Chapter 1, Section V.A.2 is revised to read as follows:

V.A.2—Special Common Bond Rules for Low-Income Federal Credit Unions

Generally, a low-income credit union is chartered as a community or associational credit union. The Regional Director will determine whether the applicants have provided sufficient evidence to demonstrate the need for a low-income community charter. Such evidence must establish that the geographic area's boundaries are clearly defined and that the area is recognized as a distinct neighborhood, community, or rural district. A low-income credit union that has a community common bond may include the following language in its field of membership:

"Persons who live in (the target area); persons who regularly work, worship, perform volunteer services, or participate in associations headquartered in (the target area); persons participating in programs to alleviate poverty or distress which are located in (the target area); incorporated

and unincorporated organizations located in (the target area) or maintaining a facility in (the target area); and organizations of such persons.”

In recognition of the special efforts needed to help make credit union service available to persons in low-income communities, NCUA permits credit union chartering and field of membership amendments based on associational groups formed for the sole purpose of making credit union service available to low-income persons. The association must be defined so that all its members will meet the low-income definition of § 701.32 of NCUA's Regulations. The association, in documenting its low-income membership, may use the same types of documentation as are currently permitted for determining whether a community is low-income under § 701.32 of NCUA's Regulations.

In addition, a proposed or existing low-income federal credit union whether community or associationally based, may include in its field of membership, without regard to location, one or more groups constituting an occupational, associational or community common bond. Except for the operational area requirements, the proposed or existing credit union must meet all the requisites for including the group in its charter. Moreover, the proposed or existing credit union must take care to ensure that it will continue to meet the requirements for low-income status.

5. Chapter 1, Section V.A.3 is revised to read as follows:

V.A.3—Special Common Bond Rules for Other Federal Credit Unions Seeking to Serve Low-Income Persons

In the interest of making credit union service available to persons in low-income communities, NCUA also permits any occupational, associational, multiple group, or community federal credit union to include in its field of membership, without regard to location, communities and associational groups satisfying the low-income definition of § 701.32 of NCUA's Regulations. The associational group may be formed for the sole purpose of providing eligibility for federal credit union service, but must comprise only persons meeting NCUA's low-income definition.

The federal credit union adding the low-income community or association must document that the community or association meets the low income definition in § 701.32 of NCUA's Regulations, just as is required for a designated low-income credit union. The Regional Director will ensure that

the proposed low-income community addition is sufficient to establish a community common bond. A federal credit union adding such a community or association, however, would not be able to receive the benefits, such as expanded use of non member deposits and access to the Community Development Revolving Loan Program for Credit Unions, offered to low-income credit unions.

A federal credit union that desires to include a low-income community or association in its field of membership must first develop a business plan specifying how it will serve the entire low-income community. The business plan, at a minimum, must identify the credit and depository needs of the low-income community or association and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan as well as loan penetration rates in the community to determine if the community is being adequately served. NCUA will require periodic service status reports on its service to the low-income community and may review the credit union's service to low-income persons during examinations.

6. Chapter 1, Section V.B is deleted and Sections V.C. and V.D. are redesignated V.B and V.C, respectively.

7. Chapter 1, Section VIII.D is revised to read as follows:

VIII.D—Appeal of Regional Director's Decision

If the Regional Director denies a charter application, the group may appeal the decision to the NCUA Board. If not included with the denial notice, a copy of these procedures may be obtained from the regional director who made the decision. An appeal will be sent to the appropriate regional office within sixty days of the denial. The Regional Director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board.

Before appealing, the prospective group may, within thirty days of the denial, provide supplemental information to the regional director for reconsideration. In these cases, the request will not be considered as an appeal but as a request for reconsideration by the regional director. If the request is again denied, the group may proceed with the appeal process.

8. Chapter 2, Section II.A.3.a is revised to read as follows:

II.A.3.a—General

The special rules for credit unions serving low-income persons and serving employees at industrial parks, shopping centers and similar facilities apply equally to field of membership additions. However, there are two special situations unique to existing federal credit unions: (1) Corporate restructurings and (2) plant or base closings, and other kinds of distress to a substantial portion of a credit union's membership.

9. Chapter 2, Section III.A is revised to read as follows:

III.A—Mergers

Generally, the standards applicable to field of membership amendments apply to mergers where the continuing credit union is a federal charter. This requires analyzing each group in the merging credit union's field of membership as if the continuing credit union was proposing to expand its own field of membership without a merger. This analysis may include the use of the planned service facility concept. Merger applicants must provide NCUA with their own analysis of how the proposed field of membership conforms to this policy. For those groups from the merging credit union that do not meet operational area requirements, only the members of record will be transferred to the continuing credit union.

Where the merging credit union is state chartered, the field of membership rules for a credit union converting to a federal charter apply with the following differences:

- As to a merger involving a common bond addition, the requirements to provide a request for credit union service from the corporate, associational, or other unit to be added is not required, since the unit already has credit union service.

- As to a merger involving a select group addition:

For the same reason, the requirement for a letter from each group included in the credit union's field of membership is not required.

Where a state credit union is merging into a federal credit union, the operational area requirement may be waived if it can demonstrate that it will continue to be able to provide quality credit union service to its current field of membership as a federal credit union. The waiver is discretionary on the part of NCUA. Absent any waivers, only members of record of groups that do not meet operational area requirements will be transferred to the continuing credit union. Upon merging, the state credit union's field of membership will be

worded to conform to the NCUA standards set forth in Chapter 1. Any subsequent field of membership amendments must comply with applicable amendment procedures.

- As to a merger of a community credit union into a federal credit union of any type, the continuing credit union may be permitted to continue to provide service to the merging credit union's members of record as of the merger date where the operational area requirement is satisfied. Except in the case of an emergency merger or where the continuing credit union is low-income, the continuing federal credit union can obtain only the members of record of the merging community credit union.

Where both credit unions are community charters, the continuing credit union is a federal credit union, and the criteria for expanding the service area of a community federal credit union (as discussed previously in this Chapter) are satisfied, the entire field of membership of the merging credit union may be added to the continuing federal credit union's charter.

Mergers must be approved by all affected NCUA regional directors, and, as applicable, the state regulators.

10. Chapter 2, Section III.B. is revised to read as follows:

III.B—Emergency Mergers

A specifically designated emergency merger may be approved by NCUA without regard to field of membership or other legal constraints. An emergency merger involves NCUA's direct intervention. The credit union to be merged must either be insolvent or be likely to become insolvent within 12 months and NCUA must determine that:

- An emergency requiring expeditious action exists.
- Other alternatives are not reasonably available.
- The public interest would best be served by approving the merger.

In an emergency merger situation, NCUA takes an active role in finding a suitable merger partner (continuing credit union). NCUA is primarily concerned that the continuing credit union has the financial strength and management expertise to absorb the troubled credit union without adversely affecting its own financial condition and stability.

As a stipulated condition to an emergency merger, the field of membership of the merging credit union may be transferred intact to the continuing federal credit union without regard to any field of membership restrictions and without changing the character of the continuing federal

credit union for future amendments. Under this authority, therefore, a federal credit union may take into its field of membership a group defined by a community or associational common bond permitted under state law, regardless of whether that common bond definition could be approved under the Federal Credit Union Act. If a federal credit union which has added groups or communities under an emergency merger later proposes to merge with another federal credit union, the groups or communities added pursuant to the emergency merger will not be subject to operational area or field of membership analysis.

11. Chapter 2, Section VIII.B is revised to read as follows:

VIII.B—Streamlined Expansion Procedure (SEP) for Small Occupational Groups

In keeping with the goals of NCUA chartering policy to provide service to all eligible groups desiring credit union service, well operated federal credit unions except those designated as "distressed" may take advantage of the SEP for adding occupational groups to their fields of membership.

To use this procedure, the federal credit union's board of directors must first apply to their respective NCUA regional director for a charter amendment. The charter amendment request must be signed by the presiding officer of the board of directors.

The following is a sample amendment for permitting a federal credit union to use the SEP authority:

Groups of persons with occupational common bonds which are located within 25 miles of one of the credit union's service facilities, which have provided a written request for service to the credit union, which do not presently have credit union service available, other than through a community credit union, which have no more members in the group than the maximum number established by the NCUA Board for additions under this provision:

Provided, however, that the National Credit Union Administration may permanently or temporarily revoke the power to add groups under this provision upon a finding, in the Agency's discretion, that permitting additions under this provision are not in the best interests of the credit union, its members, or the National Credit Union Share Insurance Fund.

Once NCUA has approved the amendment and the credit union board has adopted it, the SEP authority may be implemented. The charter amendment permits approved federal credit unions to immediately begin serving employee

groups meeting criteria set forth in this section. Under this procedure, there is no formal NCUA action necessary on each group being added.

The maximum number of persons for each group of employees which may be added under SEP will be established by the NCUA Board from time to time. The number will be based on potential primary members—that is, the persons sharing the basic occupational affinity to each sponsor group; family members and other derivative members are not included in the SEP limit. Several groups may be simultaneously added using these procedures; however, the maximum number of persons for each group must fall within the SEP limit.

The SEP does not apply to associational groups since NCUA must review membership requirements and geographical area prior to these groups being added to a field of membership. The procedure also does not apply to community charter expansions, because of the more individualized analysis required.

The following SEP steps and documentation requirements must be adhered to:

- The federal credit union must complete, for each group to be added, an Application for Field of Membership Amendment form, NCUA 4015, shown in Appendix D.

- The federal credit union must obtain a letter, on the group's letterhead where possible, signed by an official representative identified by title, requesting credit union service and stating that the group does not have any other credit union service available from any associational, occupational or multiple group credit union.

- The group must be located within 25 miles of one of the federal credit union's service facilities. The group will be considered to be within the 25 mile limit when: (1) a majority of the groups members live, work or gather regularly within the 25 mile limit; or (2) the groups headquarters is located within the 25 mile limit; or (3) the group's "paid from" or "supervised from" location is within the 25 mile limit.

- The group must indicate the number of potential members—the number of employees—seeking service.

- The federal credit union must maintain the above documentation permanently with its charter.

- The federal credit union must maintain a control log of groups added to its field of membership under the SEP procedure. The control log must include the date the group obtained service, the name and location of the sponsor group, the number of potential primary members added, the number of miles to

the nearest main or branch office, the federal credit union board of director's approval of the group and the date approved. See Appendix D for the SEP Control Log, NCUA 4016.

- The groups added under SEP must be reported to the federal credit union's board at the next regular board meeting and made a part of the meeting minutes.
- The control log and other SEP documentation must be made available to NCUA upon request.

The regional director may from time to time request service status reports on groups added under SEP. It is advisable to use some method, such as a sponsor prefix added to the member account number, to readily access data for such groups.

Should a federal credit union fail to provide quality credit union service, as determined by the group's members or employees, to a group added under SEP, NCUA may subsequently permit dual membership with another credit union.

Should a federal credit union fail to follow the above procedures or deteriorate financially or operationally, NCUA, at its discretion, may revoke the SEP privilege.

If a federal credit union that has SEP in its charter merges with another federal credit union that does not have SEP, the continuing credit union, if it desires to have SEP, must submit a charter amendment and receive approval from NCUA to implement SEP. Otherwise, the groups obtained by the merging credit union through SEP must be listed specifically in the continuing credit union's field of membership or a reference to the merging credit union's SEP log must be made in the continuing credit union's field of membership as of the date of the merger.

12. Chapter 2, Section VIII.G is revised to read as follows:

VIII.G—Appeal of Regional Director Decision

If a field of membership expansion, merger, or spin-off is denied by the Regional Director, the federal credit union may appeal the decision to the NCUA Board. If not included with the denial notice, a copy of these procedures may be obtained from the Regional Director who made the decision. An appeal must be sent to the appropriate regional office within sixty days of the denial. The Regional Director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

The federal credit union may, within thirty days of the denial, request reconsideration and provide

supplemental information to the regional director. The request for reconsideration will not be considered an appeal but will toll the sixty day requirement to file an appeal until a ruling is received on the request for reconsideration.

13. Chapter 3, Section 3.H, is added as follows:

III.H—Appeal of Regional Director Decision

If a conversion to a state charter is denied by the Regional Director, the credit union may appeal the decision to the NCUA Board. If not included with the denial notice, a copy of these procedures may be obtained from the Regional Director who made the decision. An appeal must be sent to the appropriate regional office within sixty days of the denial. The Regional Director will then forward the appeal to the NCUA Board. NCUA central office staff will make an independent review of the facts and present the appeal to the Board with a recommendation.

The federal credit union may, within thirty days of the denial, request reconsideration and provide supplemental information to the regional director. The request for reconsideration will not be considered an appeal but will toll the sixty day requirement to file an appeal until a ruling is received on the request for reconsideration.

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[FR Doc. 95-24689 Filed 10-3-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-CE-46-AD]

Airworthiness Directives; Beech Aircraft Corporation Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Corporation (Beech) Models 1900, 1900C, and 1900D airplanes that do not have canted bulkhead Repair Kit No. 129-4005-1 S incorporated. The proposed action would require repetitively inspecting the canted bulkhead located at Fuselage Station 588.10 for cracks, and, if cracks are

found that exceed certain limits, incorporating canted bulkhead Repair Kit No. 129-4005-1 S as terminating action for the repetitive inspection requirement. Numerous reports of multi-site cracks occurring in the canted bulkhead at Fuselage Station 588.10 on the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent the inability of the bulkhead to carry its ultimate design load because of cracks in the canted bulkhead, which, if not detected and corrected, could affect rudder cable tension and result in reduced rudder power.

DATES: Comments must be received on or before December 4, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-CE-46-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4124; facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact