the human condition — ensuring clean air, clean water, and a robust economy — nuclear energy should be a part of America's diverse energy mix. The failure to innovate within the nuclear industry and produce newer more cost effective technologies and allow current nuclear power plants to produce income streams other than those from electricity generation; have prevented the nuclear industry from competing against other technologies such as natural gas.

Nuclear energy is simply more reliable than all other sources of energy except geothermal. It has the ability to operate at full capacity 90 percent of the time. By contrast, solar energy can only sustain maximum output less than one-third of the time and wind generation just about half of the time because the sun isn't always shining and the wind isn't always blowing. Another source of energy must always be ready to back up unreliable renewables, which is often coal and natural gas.

Nuclear power has even proved its reliability in the face of devastating conditions. A two-reactor nuclear power plant located near Houston, known as the South Texas Project, took a direct hit from the Category 4 Hurricane Harvey. While Texas' wind farms quickly cut off generation due to high winds, the nuclear power plant continued providing power at capacity for struggling communities during the disaster.

In other words, nuclear provided electricity when Texans needed it most.

While states have their own development programs for other energy technologies (coal, oil, gas, wind, and solar); the federal government has a near monopoly in the development of new nuclear technologies. The federal government has failed to recognize substantively the interest of the states to develop new nuclear technologies for peaceful uses.

The federal government should remove barriers to the research and development of nuclear technologies so that states can provide scientific diversity and aid in accelerating the development of new nuclear technologies. This will help provide Americans with a program of maximum development and an energy future that is not only clean, affordable, and reliable, but also powers their lives and their potential for flourishing.

Grounds for Proposed Action

The United States has fallen behind or is falling behind the rest of the world in building nuclear reactors and developing new nuclear technologies. The United States has not come close to the rate of building and planning of nuclear power plants under the Atomic Energy Commission (AEC) which was formed in 1946 and dissolved in 1974. In 1974 the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission (NRC) legally split the duties of the AEC. The ERDA was to take on the research and development activities of the AEC and the NRC was to take on the safety and regulatory aspects of the defunct AEC. In 1977, Congress saw fit to dissolve the ERDA and consolidate the Federal Energy Administration, the ERDA, the Federal Power Commission, and programs of various other agencies into the Department of Energy (DOE).

What was lost in the dissolution of the AEC were a number of key issues that remain unresolved to this day. The 1954 Atomic Energy Act (AEA) amended the 1946 Atomic Energy Act and is still the core piece of legislation that drives the regulation of the nuclear industry. Included within the language of the 1954 Atomic Energy Act:

- Required the AEC to ''*recognize the interests of the States in the peaceful uses of atomic energy*'' U.S. Code 42 Section 2021.
- Required the AEC to ''*promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development*'' U.S. Code 42 Section 2021.
- Required the AEC to create ''*a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress*'' U.S. Code 42 Section 2013.
- Required the AEC to ''*create a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation*'' U.S. Code 42 Section 2013.

Many of these legal requirements, as laid out by Congress in 1954 are not being met since the AEC was dissolved.

Statement in Support of Proposed Action

While the NRC has developed rules that allow states to regulate source material and byproducts, it has failed to recognize the interests of states to develop new nuclear technologies and to encourage maximum scientific and industrial progress. The NRC however, has correctly identified that its mission is only concerned with safety and regulation; not development. Providing a program that encourages maximum scientific and industrial progress most correctly falls under the umbrella of the DOE. We believe a proper interpretation of the law is that the authority of the DOE can be extended to states in collaborative research and development agreements per the 1954 AEA mandate to recognize the states interest in developing nuclear technologies for peaceful uses and the provision for providing a program of maximum development. We do not believe DOE authority can extend to commercial activity unless the NRC has previously authorized such activity such as in the production of medical isotopes from research reactors -or- the DOE developed reactor is a demonstration reactor that aids in determining real world feasibility.

Proposed Action

I, Ken Kay, hereby petitions the United States Department of Energy, under its authority, to promulgate rules and establish programs that will allow states and their agents to collaboratively develop new nuclear technologies with the United States Department of Energy, and under the authority of the United States Department of Energy, including, but not limited to, the development of small nuclear reactors that are designed to produce ten megawatts or less of thermal energy, thus providing for a program of maximum development that recognizes the interests of states.

I, Ken Kay, hereby petitions the USDOE to promulgate rules and programs that will allow states to develop collaborative nuclear and non-nuclear laboratories with the United States Department of Energy on currently licensed or formerly licensed nuclear facility grounds, within their respective states, and allow for the construction of collaborative nuclear experimentation containment facility testing platforms.

Ken Kay

Ken Kay

October 23rd 2019.

[FR Doc. 2020–28202 Filed 1–14–21; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AF20

Overdraft Policy

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is issuing a proposed rule to amend one of the requirements that a federal credit union (FCU) must adopt as a part of their written overdraft policy. Specifically, the proposed rule would modify the requirement that an FCU's written overdraft policy establish a time limit, not to exceed 45 calendar days, for a member to either deposit funds or obtain an approved loan from the FCU to cover each overdraft. The proposed rule would remove the 45-day limit and replace it with a requirement that the written policy must establish a specific time limit that is both reasonable and applicable to all members, for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft. Consistent with U.S. generally accepted accounting principles (GAAP), overdraft balances should generally be charged off when considered uncollectible. The Board believes that this change would improve a requirement that is not only overly prescriptive, but could be especially detrimental as FCUs take steps to provide their members the flexibility needed to cope with the impacts of COVID–19.

DATES: Comments must be received on or before February 16, 2021.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF20, 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 Overdraft Policy'' in the transmittal.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

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: *Policy and Analysis:* Alison Clark, Chief Accountant, Office of Examination and Insurance, at (703) 518–6611; *Legal:* Gira Bose and Thomas Zells, Staff Attorneys, Office of General Counsel, at (703) 518–6540; or by mail at: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314.

SUPPLEMENTARY INFORMATION:

I. Background

The COVID–19 pandemic has created uncertainty for federally insured credit unions (FICUs) and their members. The Board has been working with federal and state regulatory agencies, in addition to FICUs, to assist FICUs in managing their operations and to facilitate continued assistance to credit union members and communities impacted by the coronavirus. As part of these ongoing efforts, the Board is proposing to modify the maximum time an FCU overdraft policy may allow for a member to cure an overdraft. The Board believes that this change would help ensure that FCUs have the additional flexibility necessary to provide relief to their members in a manner consistent with the NCUA's responsibility to maintain the safety and soundness of the credit union system.[1]

The NCUA first permitted FCUs to advance money to a member to cover his or her account deficit (overdraft) without having a credit application on file in 2000.[2] The Federal Credit Union Act (FCU Act) does not specifically address an FCU's authority to pay or honor a debit from a share account that will result in an overdrawn account. However, the NCUA's longstanding position has been that an overdraft, as a financial accommodation to a member, constitutes a loan or line of credit to a member. The Board also believes that the authority to cover overdrafts is incidental [3] to an FCU's authority to accept payment on shares.[4] In particular, under the incidental powers test established by the courts [5] and in the NCUA's regulations in 12 CFR part 721, covering overdrafts from such accounts: (1) Is useful in carrying out FCU business because it facilitates ongoing maintenance of accounts that are temporarily overdrawn; (2) is the functional equivalent and indeed directly associated with other deposit account activity; and (3) involves risks similar to those FCUs assume in accepting payment on shares generally.[6]

When providing FCUs with this authority in 2000, the NCUA adopted a regulatory requirement that, in order for an FCU to advance money to a member to cover an account deficit without having a credit application from the borrower on file, the FCU must have a written overdraft policy that meets certain requirements. One of these requirements is that the FCU's written policy must establish a time limit not to exceed 45 calendar days for a member either to deposit funds or obtain an approved loan from the FCU to cover each overdraft. As described more fully in section III, the Board believes that this policy is overly prescriptive and potentially harmful to both FCUs and their members. The Board is especially concerned that the requirement has and will continue to prevent FCUs from taking appropriate steps to provide their members the flexibility needed to cope with the impact of COVID–19. As such, the Board proposes removing the prescriptive 45-day limit and instead requiring that an FCU's written policy must establish a specific time limit that is both reasonable and applicable to all members for a member to cure their overdraft by either depositing funds or obtaining an approved loan. Consistent with U.S. GAAP, overdraft balances should generally be charged off when considered uncollectible. The Board is also proposing to add a reference to Regulation E,[7] which implements the Electronic Fund Transfer Act and governs certain overdraft services.

II. Legal Authority

The Board is issuing this proposed rule pursuant to its authority under the FCU Act.[8] The FCU Act grants the Board a broad mandate to issue regulations governing both FCUs and, more generally, all FICUs. 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 Act.[9] Section 209 of the FCU Act is a plenary grant of regulatory authority to issue rules and regulations necessary or appropriate to carry out its role as share

[1] Federally insured, state-chartered credit unions (FISCU) are not subject to the overdraft policy requirements in 12 CFR 701.21(c)(3).

[2] 65 FR 15224 (Mar. 22, 2000).

[3] 12 U.S.C. 1757(17).

[4] 12 U.S.C. 1757(6).

[5] *Nations Bank of N. Carolina* v. *Variable Annuity Life Ins. Co.,* 513 U.S. 251 (1995).

[6] *See* Overdraft Practices, Office of the Comptroller of the Currency, Interpretive Letter #1082 (May 17, 2007), *available at https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2007/int1082.pdf.*

[7] 12 CFR part 1005.

[8] 12 U.S.C. 1751 *et seq.*

[9] 12 U.S.C. 1766(a).

insurer for all FICUs.[10] Other provisions of the Act confer specific rulemaking authority to address prescribed issues or circumstances.[11] Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the credit union industry and the National Credit Union Share Insurance Fund (NCUSIF) remain safe and sound.

III. The Proposed Rule

Section 701.21(c)(3) of the NCUA's regulations provides that an FCU can advance money to a member to cover his or her account deficit without having a credit application on file if the credit union had a written overdraft policy. Specifically, § 701.21(c)(3) requires that an FCU's written overdraft policy must: (1) Set a cap on the total dollar amount of all overdrafts the credit union will honor consistent with the credit union's ability to absorb losses; (2) establish a time limit not to exceed 45 calendar days for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft; (3) limit the dollar amount of overdrafts the credit union will honor per member; and (4) establish the fee and interest rate, if any, the credit union will charge members for honoring overdrafts.

As previously noted, the Board is concerned that the requirement that an FCU's overdraft policy establish a time limit not to exceed 45 calendar days for a member to cure their overdraft is unnecessarily prescriptive during normal times, but has been and will continue to be especially detrimental as FCUs and their members face challenges imposed by COVID–19. The Board believes it is imperative that FCUs have the flexibility to work with their members to take positive and proactive actions that can manage or mitigate adverse impacts on members while maintaining safe-and-sound operations. As such, the Board proposes amending § 701.21(c)(3) to remove the prescriptive 45-day limit for curing an overdraft and replacing it with a requirement that an FCU's written overdraft policy must establish a specific time limit that is both reasonable and applicable to all members for a member to either deposit funds or obtain an approved loan from the FCU to cover each overdraft. Consistent with U. S. GAAP, overdraft balances should generally be charged off when considered uncollectible.

This change would also remedy a discrepancy between the current 45-day limit imposed on FCUs for curing an overdraft and NCUA-adopted interagency guidance on overdraft protection programs that suggests a maximum of 60 days before an overdraft is charged-off.[12] The Board emphasizes that the recommended maximum of 60 days for charging off an overdraft in the interagency guidance is a suggestion derived from general safety and soundness considerations and U.S. GAAP for generally charging off overdraft balances when they are considered uncollectible.[13] The Board expects that FCUs will exercise their good, professional judgment when working with members and determining when overdraft balances are deemed uncollectible. This professional judgment is especially important as FCUs help their members deal with the impacts of COVID–19.

The Board is also proposing to amend § 701.21(c)(3) to add a cross-reference to Regulation E. Regulation E sets forth other requirements applicable to certain overdraft services and was amended in 2009, after the adoption of § 701.21(c)(3).[14] This addition would not impose any new or additional requirements on FCUs, nor would this rule supersede, or relieve FCUs from complying with, any provisions of Regulation E.

The Board requests comment on all aspects of this proposed rule. Because of the targeted nature of the proposed amendments to this existing regulation, the Board believes that a 30-day comment period provides adequate opportunity for public participation.[15]

In addition to offering your comments on any aspect of this proposed rule, please provide your input on the following questions:

- 1. What specific difficulties or adverse outcomes you have encountered as a result of the 45-day time limit in 12 CFR 701.21 during COVID–19?
- 2. Has your credit union made any changes to its overdraft program to mitigate the impact of the pandemic on members, such as reducing or eliminating overdraft or insufficient funds fees? Please share any and all overdraft relief you are currently providing to your members.
- 3. With regard to overdraft programs in general, what additional relief do commenters feel would be appropriate for the NCUA and/or credit unions to extend to members utilizing overdraft products during COVID–19? Are there any other potential changes to the overdraft provisions in 12 CFR 701.21 that could be beneficial for credit union members?

IV. Regulatory Procedures

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden (44 U.S.C. 3507(d)). For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or a third-party disclosure requirement, referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

The proposed rule would modify the requirements of an FCU's written overdraft policy by removing the 45-day overdraft limit requirement and replacing it with a requirement that the policy establish a specific time limit that is, reasonable, applicable to all members, and consistent with U.S. GAAP. The information collection requirement of this part to retain and maintain a written overdraft policy is currently covered by OMB control number 3133–0092. The rule would not result in a change in burden, and there are no new information collection requirements associated with the rule.

B. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles.

This proposed rule would not have substantial direct effects on the states,

[10] 12 U.S.C. 1789.

[11] An example of a provision of the FCU Act that provides the Board with specific rulemaking authority is section 207 (12 U.S.C. 1787), which is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.

[12] In February 2005, the NCUA, along with the Federal Reserve Board, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, published guidance on overdraft protection programs in response to concerns about aspects of the growing marketing, disclosure, and implementation of overdraft services. 70 FR 9127 (February 24, 2005) (Joint Guidance) (''[O]verdraft balances should generally be charged off when considered uncollectible, but no later than 60 days from the date first overdrawn.''), available at *https://www.ncua.gov/files/letters-credit-unions/LCU2005-03Encl.pdf.*

[13] Overdraft balances should be charged off against the allowance for loan and lease losses or allowance for credit losses, if applicable. Any payments received after the account is charged off, up to the amount charged off against the allowance should be reported as a recovery.

[14] 12 CFR part 1005.

[15] *See* NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2 and IRPS 15–1. 80 FR 57512 (Sept. 24, 2015), *available at https://www.ncua.gov/files/publications/irps/IRPS1987-2.pdf.*

on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

C. Assessment of Federal Regulations and Policies on Families

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

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule or a final rule pursuant to the APA [16] or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**.[17] Specifically, the RFA requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. For purposes of the RFA, the Board considers credit unions with assets less than $100 million to be small entities.[18] The proposed rule would relieve some of the restrictiveness of a requirement applicable to all FCUs to maintain requirements in policies relating to member overdrafts. The proposed rule would not require any FCUs to change their current policies or impose new burdens. Therefore, the Board certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the NCUA Board on December 17, 2020.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed in the preamble, the Board proposes to amend part 701 of chapter VII of title 12 of the Code of Federal Regulations to read as follows:

PART 701—ORGANIZATION AND OPERATION 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. Amend § 701.21 by revising paragraph (c)(3) to read as follows:

§ 701.21 Loans to Members and lines of credit to members.

* * * * *

(c) * * *

(3) *Credit applications and overdrafts.* Consistent with policies established by the board of directors, the credit committee or loan officer shall ensure that a credit application is kept on file for each borrower supporting the decision to make a loan or establish a line of credit. A credit union may advance money to a member to cover an account deficit without having a credit application from the borrower on file if the credit union has a written overdraft policy. The policy must: Set a cap on the total dollar amount of all overdrafts the credit union will honor consistent with the credit union's ability to absorb losses; establish a specific time limit that is reasonable and universally applicable for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft; limit the dollar amount of overdrafts the credit union will honor per member; and establish the fee and interest rate, if any, the credit union will charge members for honoring overdrafts. Consistent with U.S. GAAP, overdraft balances should generally be charged off when considered uncollectible. In addition, overdraft services covered by Regulation E, 12 CFR part 1005, are subject to applicable requirements set forth in that regulation.

* * * * *

[FR Doc. 2020–28280 Filed 1–14–21; 8:45 am]

BILLING CODE 7535–01–P

[16] 5 U.S.C. 553(b).

[17] 5 U.S.C. 603, 604.

[18] NCUA IRPS 15–1. 80 FR 57512 (Sept. 24, 2015).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1169; Product Identifier MCAI–2020–01373–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–07–16, which applies to certain Dassault Aviation Model FALCON 7X airplanes. AD 2020–07–16 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2020–07–16, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by March 1, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the