

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN: 3133-AE31

Chartering and Field of Membership Manual

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: The NCUA Board proposes to amend its chartering and field of membership rules to give applicants for community charter approval, expansion or conversion the option, in lieu of a presumptive community, to submit a narrative to establish common interests or interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. The Board also proposes to increase up to 10 million the population limit on a community consisting of a statistical area or a portion thereof. Finally, when such an area is subdivided into metropolitan divisions, the Board will permit a credit union to designate a portion of the area as its community without regard to division boundaries.

DATES: Comments must be received on or before [INSERT DATE THAT IS 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments by any of the following methods (**Please send comments by one method only**):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- NCUA Web Site:
http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.
Follow the instructions for submitting comments.
- E-mail: Address to regcomments@ncua.gov. Include “[Your name] Comments on Notice of Proposed Rulemaking re Community Common Bond” in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Gerard S. Poliquin, 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 NCUA’s website at <http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx> as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information

from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518-6546 or send an e-mail to OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: Matthew Biliouris, Deputy Director, or Robert Leonard, Director, Division of Consumer Access, or Rita Woods, Director, Division of Consumer Access South, Office of Consumer Financial Protection and Access, at the above address or telephone (703) 518-1140; or Senior Staff Attorney Steven Widerman or Staff Attorney Marvin Shaw, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview

NCUA's Chartering and Field of Membership Manual, incorporated as Appendix B to part 701 of its regulations ("Chartering Manual"),¹ implements the field of membership ("FOM") requirements established by the Federal Credit Union Act ("the FCU Act") for federal credit unions (each an "FCU").² An FOM consists of those persons and entities eligible for membership according to an FCU's type of charter.

¹ Appendix B to 12 CFR part 701 ("Appendix B").

² 12 U.S.C. 1759.

In adopting the Credit Union Membership Access Act of 1998 (“CUMAA”), Congress reiterated its longstanding support for credit unions, noting their “specif[ic] mission of meeting the credit and savings needs of consumers, especially persons of modest means.”³ As amended by CUMAA, the FCU Act provides a choice among three charter types: a single group sharing a single occupational or associational common bond;⁴ a multiple common bond of groups that each have a distinct occupational or associational common bond among group members;⁵ and a community common bond among “persons or organizations within a well-defined local community, neighborhood or rural district.”⁶

As amended in 1998, the FCU Act directs the Board to define what constitutes a well-defined local community (“WDLC”), neighborhood or rural district for purposes of “making any determination” regarding a community credit union,⁷ and to establish applicable criteria for any such determination.⁸ To qualify as a WDLC or rural district, the Board requires the proposed area to have “specific geographic boundaries,” such as those of “a city, township, county (single or multiple portions of a county) or their political equivalent, school districts or a clearly identifiable neighborhood.”⁹ The boundaries themselves may consist of political borders, streets, rivers, railroad tracks, or other static geographical features.¹⁰ The Board continues to emphasize

³ Pub. L. No. 105-219, §2, 112 Stat. 913 (Aug 7, 1998).

⁴ 12 U.S.C. 1759(b)(1).

⁵ *Id.* §1759(b)(2)(A).

⁶ *Id.* §1759(b)(3).

⁷ *Id.* §1759(g)(1)(A).

⁸ *Id.* §1759(g)(1)(B).

⁹ Appendix B, Ch. 2, section V.A.2.

¹⁰ Appendix B, Ch. 2, section V.A.5.

interaction or common interests among residents within those boundaries as essential features of a local community.

Until 2010, the Chartering Manual required FCUs to submit for NCUA approval a narrative, supported by documentation, that presents indicia of common interests or interaction among residents of a proposed community (the “narrative model”). In 2010, the Board abandoned the narrative model in favor of an objective model that gives credit unions a choice between two “presumptive communities” that each by definition qualifies as a WDLC (the “presumptive community model”).¹¹ The first of these is a “Single Political Jurisdiction . . . or any contiguous portion thereof” (each an “SPJ”), regardless of population.¹² The other is a single Core Based Statistical Area as designated by the U.S. Census Bureau (“Census”) or a well-defined portion thereof (each a “CBSA”), subject to a 2.5 million population limit.¹³

In the case of a CBSA that the Office of Management and Budget (“OMB”) has subdivided into metropolitan divisions, a community consisting of a portion of the CBSA must conform to the boundaries of such divisions. Under either “presumptive community” option, an FCU must be

¹¹ As explained in the final rule that discontinued use of the subjective model, the Board “does not believe it is beneficial to continue the practice of permitting a community charter applicant to provide a narrative statement with documentation to support the credit union’s assertion that an area containing multiple political jurisdictions meets the standards for community interaction and/or common interests to qualify as a WDLC. As [the proposed rule] noted, the narrative approach is cumbersome, difficult for credit unions to fully understand, and time consuming. . . . While not every area will qualify as a WDLC under the statistical approach, NCUA stated it believes the consistency of this objective approach will enhance its chartering policy, assure the strength and viability of community charters, and greatly ease the burden for any community charter applicant.” 75 FR 36257, 36260 (June 25, 2010).

¹² Appendix B, Ch. 2, section V.A.2.

¹³ *Id.* “A total population cap of 2.5 million is appropriate in a multiple political jurisdiction context to demonstrate cohesion in the community.” 75 FR 36257, 36260 (June 25, 2010).

able to serve its entire proposed community, as demonstrated by its business and marketing plans that must accompany an application for charter approval, expansion or conversion.¹⁴

In a final rule published elsewhere in this volume of the Federal Register, the Board comprehensively overhauled the Chartering Manual. With respect to community charters, the final rule, among other things, affirmed the 2.5 million population cap that applies to a “presumptive community” consisting of a CBSA or portion thereof,¹⁵ and recognized an OMB-designated Combined Statistical Area or a portion thereof as a “presumptive community” subject to the same population limit.¹⁶

The final rule also permitted the addition of an adjacent area to an existing “presumptive community” based on a narrative presenting indicia that residents on both sides of the perimeter share common interests and interact with each other, subject to the same population limit. The Board narrowly reinstated the narrative model for this singular purpose. To achieve that purpose, the final rule directed the Office of Consumer Financial Protection and Access (“OCFPA”) to issue guidance identifying indicia corresponding to the criteria that an FCU’s narrative should address to support the addition of an adjacent area,¹⁷ and which the Board will consider in deciding an FCU’s application to do so.

¹⁴ Appendix B, Ch. 2, §V.A.4.

¹⁵ The final rule also modified the “statistical area” definition to specify that in the case of a community consisting of a portion of either a CBSA or a Metropolitan Division within, the portion *by itself* must have a population of 2.5 million or fewer, regardless whether the CBSA or Metropolitan Division *as a whole* exceeds the limit. Appendix B, Ch. 2, section V.A.2.

¹⁶ Appendix B, Ch. 2, §V.A.2. OMB Bulletin No. 15-01 to Heads of Executive Departments and Establishments (July 15, 2015) at: <https://www.whitehouse.gov/sites/default/files/omb/bulletins/2015/15-01.pdf>

¹⁷ 80 FR 76748, 76772 (Dec. 10, 2015) (referring to the presence of an economic hub, quasi-governmental agencies, Government designated programs, shared public services and facilities, and colleges and universities).

B. Why is NCUA Proposing this Rule?

NCUA is proposing this rule to consider three recommendations from commenters that exceeded the scope of the Board's 2015 proposal to comprehensively overhaul the Chartering Manual.¹⁸

First, despite the ease and convenience of the "presumptive community" model as a safe harbor to establish a WDLC, it may be too limiting if it confines FCUs to "presumptive community" options that may be unsuited to their purposes and ability, leaving them with no recourse but to accept an area other than the one they ideally seek to serve. General use of the narrative model in seeking approval to charter, to expand, or to convert to, a community charter would address such a dilemma.

Second, the Board seeks to explore the possibility of increasing up to 10 million the population limit that applies to a local community other than an SPJ, to permit approval of a community within that maximum to the extent of an FCU's ability and commitment to adequately serve that community without compromising either the safety and soundness of the FCU's operations or the cohesion of the community.¹⁹

Finally, when an FCU seeks to serve a portion of a Combined Statistical Area as its WDLC, that portion is *not* required to conform to the boundaries of the CBSA components that form the Combined Statistical Area. In contrast, when an FCU seeks to serve a portion of a CBSA as its community--notwithstanding that a CBSA is far more compact than a Combined Statistical Area--the existing rule nonetheless requires such portion of a CBSA to conform to the boundaries of the metropolitan divisions within, if any. Permitting a credit union to designate a portion of a CBSA

¹⁸ 80 FR 76748

¹⁹ See note 13 *supra*.

as its community without regard to division boundaries would address this disparity in treatment of a community consisting of a portion of a CBSA versus that of a Combined Statistical Area.

Consistent with the Board’s responsibility under CUMAA to facilitate access to credit union services, the objective of the three proposals in this rule is to give FCUs greater flexibility in providing services to consumers who are eligible for FCU membership, particularly those of modest means.

II. Summary of the Proposed Rule

A. General Applicability of Narrative Model to Establish a Well-Defined Local Community.

The proposed rule would permit general use of the narrative model--which the final rule will make available solely to add an adjacent area to an existing or a new community²⁰--to seek NCUA approval to initially form, to expand, or to convert to, a community charter. In lieu of reliance on a “presumptive community,” the proposed rule would permit an FCU to submit a narrative, supported by appropriate documentation, to demonstrate that the community it proposes to serve qualifies as a WDLC based on common interests or interaction among the area’s residents.

The Act gives the Board broad discretion to define a WDLC for purposes of “making *any determination*” regarding a community credit union,²¹ and to establish criteria to apply to any

²⁰ Appendix B, Ch. 2, §V.A.2.

²¹ 12 U.S.C. 1759(g)(1)(A) (emphasis added).

such determination.²² Under that authority, the Board proposes, in a new appendix to the Chartering Manual, a set of “Narrative Criteria to Identify a Well-Defined Local Community” that an FCU should address in the narrative it submits in support its application to charter, expand, or convert to, a community credit union.

NCUA’s experience with community charter applications under the pre-2010 narrative model indicates that these particular thirteen criteria generally were the most useful and compelling, when properly addressed and documented, to demonstrate common interests or interaction among residents of a proposed community. An area need not meet all of the narrative criteria to qualify as a local community; rather, the totality of circumstances within the criteria a credit union elects to address must indicate a sufficient presence of common interests or interaction among the area’s residents. The new appendix explains each criterion in order to guide applicants in the prudent use of their resources, with minimal burden, to assess whether an area qualifies as a local community and, if so, to develop an effective and well-documented narrative to justify Board approval of its application.²³

Accordingly, the Board will consider the following criteria, and the supporting documentation for each, in evaluating the presence of interaction and/or common interest among residents sufficient to establish that an area is a WDLC:

²² *Id.* §1759(g)(1)(B).

²³ Appendix 6 to Appendix B.

1. Presence of a Central Economic Hub

The proposed community includes an economic hub. An economic hub is evident when one political jurisdiction (city or county) within a proposed local community has a relatively large percentage of the community's population or is the primary location for employment. The application needs to identify the major employers and their locations within the proposed community.

2. Community-wide Quasi-Governmental Agency Services

The existence of organizations such as economic development commissions, regional planning boards, and labor or transportation districts can be important factors to consider. The more closely their service area matches the entire area, the greater the showing of interaction and/or common interests.

3. Governmental Designations With Community

Designation of the proposed community by a government agency as a region or distinct district – such a regional transportation district, a water district, or a tourism district – is a factor that can be considered in determining whether the area is a local community. The more closely the designation matches the area's geographic boundaries, the greater the value of that evidence in demonstrating interaction and/or common interests.

4. Shared Public Services and Facilities

The existence of shared services and facilities, such as police, fire protection, park districts, public transportation, airports, or public utilities, can contribute to a finding that an area is a

community. The more closely the service area matches the geographic boundaries of the community, and the higher the percentage of residents throughout the community using those services or facilities, the more valuable the data.

5. Hospitals and Major Medical Facility Services

Data on medical facilities should include admittance or discharge statistics providing the ratio of use by residents of each political jurisdiction. The greater the percentage of use by residents throughout the proposed community, the higher the value of this data in showing interaction. The application can also support the importance of an area hospital with documentation that correlates the facility's target area with the proposed local community and/or discusses the relative distribution of hospitals over a larger area.

6. College and University Enrollment

College enrollment data can be a useful factor in establishing a local community. The higher the percentages of student enrollment at a given campus from residents throughout each part of the community, the greater the value in showing interaction. Additionally, the greater the participation by the college in community initiatives (*e.g.*, partnering with local governments), and the greater the service area of these initiatives, the stronger the value of this factor.

7. Multi-Jurisdictional Mutual Aid Agreements

The existence of written agreements among law enforcement and fire protection agencies in the area to provide services across multiple jurisdictions can be an important factor.

8. Organizations' and Clubs' Membership and Services

The more closely the service area of an organization or club matches the proposed community's boundaries, and the greater the percentage of membership and services throughout the proposed community, the more relevant the data.

9. Newspaper Subscriptions

A newspaper that has a substantial subscription base in an area can be an indication of common interests. The higher the household penetration figures throughout the area, the greater the value in showing common interests. Subscription data may include print copies as well as on-line access.

10. Attendance at Entertainment and Sporting Events

Data need to show the percentage of residents from each political jurisdiction who attend the events. The higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction. For sporting events, as well as some entertainment events, data on season ticket holders and memberships may be available. As with overall attendance figures, the higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction.

11. Local Television and Radio Audiences

A television or radio station broadcasting in an area can be an indication of common interests. Objective data on viewer and listener audiences in the proposed community can support the existence of a community.

12. Community-wide Shopping Patterns

The narrative must identify the location of the major shopping centers and malls and include the percentage of shoppers coming from each part of the community. The larger the percentage of shoppers from throughout the community, the stronger the case for interaction. While of lesser value than the shopping data, identification of the shopping center's target area can be persuasive. The target area should closely match the geographic boundaries of the proposed community.

13. Geographic Isolation

Some communities face varying degrees of geographic isolation. As such, travel outside the community can be limited by mountain ranges, forests, national parks, deserts, bodies of waters, etc. This factor, and the relative degree of isolation, may help bolster a finding of interaction or common interests.

B. Increase in Statistical Area Population Limit to 10 Million.

The proposed rule would increase to 10 million the 2.5 million population limit that presently applies to a community consisting of a CBSA or Combined Statistical Area (each a "statistical area") or other area an FCU designates, subject to an FCU's ability and commitment to adequately serve the area. Despite having just affirmed a 2.5 million population limit, the Board anticipates that many areas that would qualify as a WDLC will experience population growth over time. The Board therefore believes that its policy should anticipate and accommodate inevitable growth, to the extent permissible under the Act, in order to maximize the potential membership base available to community credit unions.

Three grounds justify a population limit of 10 million. First, it would conform to the population of the most populous SPJ the Board has approved (Los Angeles County) and, notwithstanding that an SPJ is not subject to a population cap, the FCU that serves that community has not experienced adverse safety or soundness consequences attributable to its population size.²⁴

Second, the Board believes the population limit on a community consisting of a statistical area must be sufficiently accommodating to minimize the disparity between such communities and those comprised of an SPJ, which is unbound by any population limit. Third, a 10 million population limit would narrow the inherent imbalance between the population cap that applies to FCUs and the uncapped state credit unions in at least the nine states with a population between 2.5 and 10 million. The laws of these states allow their credit unions to serve a state-wide FOM.

To fully consider an increase in the population limit on a community consisting of a statistical area, the Board seeks the benefit of public comments addressing the following issues affecting a statistical area--

- Whether to apply any population limit at all if the area is completely or primarily urban according to Census data.
- Whether to designate a particular metric on which to rely in setting and adjusting a population limit.

²⁴ The FCU that serves the Los Angeles County community has approximately 32,000 members, representing a community penetration rate of 3 percent.

- Whether to apply any population limit at all to a CBSA or Statistical Area given that neither one is defined, by the Census or OMB respectively, according to maximum population.
- Whether to apply a population limit equivalent to the most populous/largest SPJ NCUA has approved (*i.e.*, Los Angeles County, as explained above).
- Whether to apply a population limit equivalent to either the average or median population among either all CBSAs with a population in excess of 2.5 million, or all Combined Statistical Areas with population in excess of 2.5 million.
- Whether to apply a population limit equivalent to the greater of either 2.5 million or a specific percentage of the population of the CBSA or Combined Statistical Area, and if so, what the percentage should be.
- Whether to apply a population limit equivalent to the most populous/largest Metropolitan Statistical Area that is totally or partially encompassed by the proposed community.
- Whether to apply a population limit equivalent to the most populous/largest SPJ that is totally or partially encompassed by the proposed community.
- Whether to apply a population limit that, to ensure service to persons of modest means, excludes individuals living in a household that either is low- or moderate-income; that earns less than 200 percent of the national poverty level; or in which the principal wage-earner earns no more than the federal minimum wage (based on a 40-hour work week for 50 weeks per year); or is based on a combination of these metrics.
- Whether to delegate to NCUA staff the authority to set a population limit not exceeding a specified ceiling, and what that ceiling population should be (*e.g.*, 2.5 million, 5 million,

10 million), with the Board retaining authority to approve a limit in excess of the delegated ceiling.

- Whether to apply the same population limit regardless whether an FCU’s initial application to *charter*, or to *convert* to, a community credit union includes an area adjacent to its statistical area, versus a subsequent application to *expand* an FCU’s *existing* community to add such an adjacent area.
- Whether NCUA should establish a process to give the public notice and an opportunity to comment on an FCU’s application for approval of a statistical area with a population in excess 2.5 million.
- Whether, in view of technological advances since CUMAA, such as the internet, the Board should consider whether, and how, online social communities qualify as WDLCs.
- Whether there are other definitions of “community” that would be a relevant gauge for community credit unions (*e.g.*, the area’s student population eligible to attend its local community college, the population eligible to benefit from its quasi-government agency services and facilities).
- Whether to reinstate the narrative model for use by FCUs seeking approval serve a statistical area within certain population parameters (*e.g.*, between 2.5 and 10 million).
- Whether to discard the “presumptive community” model and reinstate the narrative model for general applicability, or to give FCUs the option to elect either model to support the area each proposes to serve as its community.
- Whether to add certain criteria to, or to delete or modify certain ones from, the new appendix of “Narrative Criteria to Identify a Well-Defined Local Community,” and how to evaluate the narrative criteria to determine whether an area qualifies as a WDLC.

C. Portion of CBSA as a Well-Defined Local Community Regardless of Internal Boundaries.

When an FCU seeks to serve a portion of a single CBSA as its WDLC, the existing rule requires such portion to conform to the boundaries of the metropolitan divisions, if any, within the CBSA. In contrast, when an FCU seeks to serve a portion of a Combined Statistical Area as its WDLC--notwithstanding that it is far more expansive than a CBSA--that portion is *not* required to conform to the boundaries of the adjoining CBSAs that form a Combined Statistical Area, nor to the boundaries of any metropolitan divisions within those CBSAs. To correct this inconsistency in the treatment of a portion of a CBSA versus that of a Combined Statistical Area, the proposed rule would permit a credit union to designate a portion of a CBSA as its community without regard to division boundaries.

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.²⁵ For purposes of this analysis, NCUA considers small credit unions to be those having under \$100 million in assets.²⁶ Although this rule is anticipated to economically benefit FCUs that choose to charter, expand or convert to a community charter, NCUA certifies that it will not have a significant economic impact on small credit unions.

²⁵ 5 U.S.C. 603(a).

²⁶ 80 FR 57512 (Sept. 24, 2015).

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to collections of information through which an agency creates a paperwork burden on regulated entities or the public, or modifies an existing burden.²⁷ For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. The Office of Management and Budget (OMB) previously approved the current information collection requirements for the Chartering and Field of Membership Manual and assigned them control number 3133-0015.

Regarding a community common bond, the proposed rule gives community charter applicants the option, in lieu of a presumptive community, to submit a narrative to establish common interests and interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. For that purpose, the rule includes guidance in identifying compelling indicia of interaction or common interests that would be relevant in drafting a narrative summarizing the indicia that community residents meet the requirements of a well-defined local community. In addition, the proposed rule increases to as much as 10 million the population limit on a community consisting of a statistical area, and when such an area is subdivided into metropolitan divisions, the rule permits a credit union to designate a portion of the area as its community without regard to division boundaries.

NCUA has determined that the procedure for an FCU to assemble and document a narrative summarizing the evidence to support its community charter application would create a new

²⁷ 44 U.S.C. 3507(d); 5 CFR part 1320.

information collection requirement. As required, NCUA is applying to OMB for approval to amend the current information collection to account for the new procedure.

Prior to IRPS 10-1, when NCUA moved to an objective model of presumptive communities, FCUs had the following three choices for a community charter: previously approved areas; single political jurisdictions; and multiple political jurisdictions. For applications involving multiple statistical areas, NCUA required FCUs to submit for NCUA approval a narrative, supported by documentation, that presents indicia of common interests or interaction among residents of the proposed community.

In the five-year period preceding moving to an objective model of presumptive communities, NCUA processed an average of twenty-five FOM applications involving multiple statistical areas. Based on this historical trend, NCUA estimates that, on average, it would take an FCU's staff approximately 160 hours to collect the evidence of interaction and common interests and to develop a narrative to support its application to expand. Accordingly, NCUA estimates the aggregate information collection burden on existing and would-be FCUs that elect to use the narrative option to form, expand, or convert to a community charter would be 160 hours times 25 FCUs for a total of 4,000 hours. NCUA is proposing to amend the current information collection control number 3133-0015 to account for these additional burden hours.

Organizations and individuals wishing to submit comments on this information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Attn: Shagufta Ahmed, Room 10226, New Executive Office Building, Washington, DC 20503, with a

copy to the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

NCUA will consider comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the NCUA, including whether the information will have a practical use;
- Evaluating the accuracy of NCUA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

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, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. Primarily because this rule applies to FCUs exclusively, it will 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. NCUA has determined this rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

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, 1999.²⁸

List of Subjects

12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 27, 2016.

Gerard S. Poliquin

Secretary of the Board

For the reasons stated above, NCUA proposes to amend 12 CFR part 701, Appendix B as follows:

PART 701 — ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

²⁸ Public Law 105–277, 112 Stat. 2681 (1998).

1. The authority 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, 1786, 1787, 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. Section V.A.2., of Chapter 2 of Appendix B to part 701 is revised to read as follows:

APPENDIX B TO PART 701—CHARTERING AND FIELD OF MEMBERSHIP MANUAL

* * * * *

V.A.2.—DEFINITION OF WELL-DEFINED LOCAL COMMUNITY AND RURAL DISTRICT

In addition to the documentation requirements in Chapter 1 to charter a credit union, a community credit union applicant must provide additional documentation addressing the proposed area to be served and community service policies.

An applicant has the burden of demonstrating to NCUA that the proposed community area meets the statutory requirements of being: (1) well-defined, and (2) a local community or rural district.

“Well-defined” means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (single, multiple, or portions of a county) or a political equivalent, school districts, or a clearly identifiable neighborhood. Although state boundaries are well-defined areas, states themselves do not meet the requirement that the proposed area be a local community.

The well-defined local community requirement is met if:

- **Single Political Jurisdiction**—The area to be served is a recognized Single Political Jurisdiction, *i.e.*, a city, county, or their political equivalent, or any single portion thereof.
- **Statistical Area**—A statistical area is all or an individual portion of one of the following:
 - A Core-Based Statistical Area designated by the U.S. Census Bureau, including a Metropolitan Statistical Area, with a population of 10 million or fewer; or
 - A Combined Statistical Area designated by the U.S. Office of Management and Budget, with a population of 10 million or fewer.
- To meet the well-defined local community requirement, an individual portion of a statistical area need not conform to internal boundaries within the area, such as metropolitan division boundaries within a Core-Based Statistical Area, and the boundaries of adjoining Core-Based Statistical Areas that form a Combined Statistical Area.
- **Compelling Evidence of Interaction or Common Interests**—In lieu of a statistical area as defined above, this option is available when a credit union seeks to initially charter a community credit union; to expand an existing community; or to convert to a community charter, subject in any case to the same population limit established for a statistical area. Under this option, the credit union must demonstrate a sufficient level of interaction or common interests among area residents to qualify the area as a local community. For that purpose, an applicant must submit for NCUA approval a narrative, supported by appropriate documentation, establishing that the area’s residents meet the requirements of a local community.

To assist a credit union in developing its narrative, Appendix 6 of this Manual identifies criteria a narrative should address, and which NCUA will consider in deciding a credit union’s application to: initially charter a community credit union; to expand an existing community, including by an adjacent area addition; or to convert to a community charter. In any case, the

credit union must demonstrate, through its business and marketing plans, its ability and commitment to serve the entire community for which it seeks NCUA approval.

* * * * *

3. Appendix B to part 701 is revised to add Appendix 6 following Appendix 5 thereto, to read as follows:

* * * * *

<p>APPENDIX 6</p> <p>NARRATIVE CRITERIA TO IDENTIFY A WELL-DEFINED LOCAL COMMUNITY</p>
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This Appendix applies when the community a federal credit union (“FCU”) proposes to serve is not a “presumptive community”, under either option in chapter 2, section V.A.2. of Appendix B to Part 701, and thus does not qualify as a well-defined local community (“WDLC”). In that event, this Appendix prescribes the criteria an FCU should address in the narrative it develops and submits to the Board to demonstrate that residents of the community it proposes to serve share common interests and/or interact with each other. The narrative should address the criteria below as the FCU deems appropriate, as well as any other criteria it believes are persuasive, to establish to the Board’s satisfaction the presence, among residents of the proposed community, of indicia of common interests and/or interaction sufficient to qualify the area as a WDLC.

1. Central Economic Hub

The proposed community includes an economic hub. An economic hub is evident when one political jurisdiction (city or county) within a proposed local community has a relatively large percentage of the community’s population or is the primary location for employment. The application needs to identify the major employers and their locations within the proposed community.

Most Persuasive	At least 25 percent of the workers living in the proposed community commute to work in the central economic hub.
Persuasive	Over 15 percent of the workers living in the proposed community commute to work in the central economic hub.
Not Persuasive	Less than 15 percent of the workers living in the proposed community commute to work in the central economic hub.

2. Quasi-Governmental Agencies

The existence of organizations such as economic development commissions, regional planning boards, and labor or transportation districts can be important factors to consider. The more closely their service area matches the entire area, the greater the showing of interaction and/or common interests.

Most Persuasive	The quasi-governmental agency covers the proposed community exclusively and in its entirety, derives its leadership from the area, represents collaboration that transcends traditional county boundaries, and has meaningful objectives that advance the residents’ common interests in economic development and/or improving quality of life.
Persuasive	The quasi-governmental agency substantially matches the proposed community and carries out objectives that affect the relevant common interests for the entire area’s residents.
Not Persuasive	The quasi-governmental agency does not match the proposed community and carries out only incidentally relevant objectives or carries out meaningful objectives in localized sections of the proposed community.

3. Governmental Designations

Designation of the proposed community by a government agency as a region or distinct district – such a regional transportation district, a water district, or a tourism district – is a factor that can be considered in determining whether the area is a local community. The more closely the designation matches the area’s geographic boundaries, the greater the value of that evidence in demonstrating interaction and/or common interests.

Most Persuasive	A division of a federal or state agency specifically designates the proposed service area as its area of coverage or as a target area for specific programs.
Persuasive	A division of a federal or state agency designates a regional area that includes the coverage area, but offers special programs tailored to the common interests shared by the residents of the proposed service area.
Not Persuasive	A division of a federal or state agency designates an area as a coverage area that encompasses several local communities.

4. Shared Public Services/Facilities

The existence of shared services and facilities, such as police, fire protection, park districts, public transportation, airports, or public utilities, can contribute to a finding that an area is a community. The more closely the service area matches the geographic boundaries of the community, and the higher the percentage of residents throughout the community using those services or facilities, the more valuable the data.

Most Persuasive	Statistical evidence documents how residents from the entire proposed service area mutually benefit from a public facility. Formal agreements exist that transcend traditional county lines and provide for a common need shared by all of the residents, such as common police or fire protection.
Persuasive	Public facilities exist that cross county lines and cover the majority of the area's population, but do not cover the area in its entirety.
Not Persuasive	The applicant cites public facilities that serve areas that do not correlate with the proposed service area.

5. Hospitals and Major Medical Facilities

Data on medical facilities should include admittance or discharge statistics providing the ratio of use by residents of each political jurisdiction. The greater the percentage of use by residents throughout the proposed community, the higher the value of this data in showing interaction. The application can also support the importance of an area hospital with documentation that correlates the facility's target area with the proposed local community and/or discusses the relative distribution of hospitals over a larger area.

Most Persuasive	The applicant provides statistics demonstrating residents from throughout the proposed community use hospitals in the major population or employment center.
Persuasive	Statistical data are not available, but the application demonstrates through other documentation a medical facility is the only viable option for a significant portion of the proposed community's residents.
Not Persuasive	The area has multiple health care facilities at geographically dispersed locations with duplicative services.

6. Colleges and Universities

College enrollment data can be a useful factor in establishing a local community. The higher the percentages of student enrollment at a given campus from residents throughout each part of the community, the greater the value in showing interaction. Additionally, the greater the participation by the college in community initiatives (e.g., partnering with local governments), and the greater the service area of these initiatives, the stronger the value of this factor.

Most Persuasive	The application provides statistical data showing the institutions of higher learning cited attract significant numbers of students from throughout the proposed community.
Persuasive	The statistical data regarding where students live is either inconclusive or unavailable. However, qualitative information exists to demonstrate the institutions' relevance to the entire proposed community, such as unique educational initiatives to support economic objectives benefiting all residents and/or partnerships with local businesses or high schools.
Not Persuasive	The statistical data tends to support the institutions recruit students from a broad based area transcending the proposed community's boundaries.

7. Mutual Aid Agreements

The existence of written agreements among law enforcement and fire protection agencies in the area to provide services across multiple jurisdictions can be an important factor.

Most Persuasive	The mutual aid agreements cover the proposed community exclusively and in its entirety, represents collaboration that transcends political boundaries such as city or county limits.
Persuasive	The mutual aid agreements substantially matches the proposed community.
Not Persuasive	The mutual aid agreements do not match the proposed community.

8. Organizations and Clubs

The more closely the service area of an organization or club matches the proposed community's boundaries, and the greater the percentage of membership and services throughout the proposed community, the more relevant the data.

Most Persuasive	Statistical data supports that organizations with meaningful objectives serve the entire proposed community.
Persuasive	Other qualitative documentation exists to support that organizations with meaningful objectives serve the entire proposed community.
Not Persuasive	The applicant lists organizations that either do not cover the proposed community in its entirety or have objectives that are too limited to have a meaningful impact on the residents' common interests.

9. Community Newspaper

A newspaper that is widely read in an area can be an indication of common interests. The higher the household penetration circulation figures throughout the area, the greater the value in showing common interests. Circulation data may include print copies as well as on-line access.

Most Persuasive	Statistical evidence indicates a significant portion of residents from throughout the proposed community read the local general interest newspaper. The paper has local stories focusing on the proposed community and has a marketing target area consistent with the proposed community boundaries.
Persuasive	Local newspapers and periodicals specifically cater to the proposed community.
Not Persuasive	The area lacks a general newspaper that covers the proposed community. There are no specialized publications catering to the entire proposed community.

10. Entertainment and Sporting Events

Data need to show the percentage of residents from each political jurisdiction who attend the events. The higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction. For sporting events, as well as some entertainment events, data on season ticket holders and memberships may be available. As with overall attendance figures, the higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction.

Most Persuasive	Statistical data exist to support that the venue attracts residents from throughout the proposed community.
Persuasive	Statistical evidence is not available, but other qualitative information documents the importance the venue has for the proposed community.
Not Persuasive	The applicant lists local venues without discussing where users originate from or otherwise documenting the relevance for the residents of the entire area.

11. Local Television and Radio Stations

A television or radio station broadcasting in an area can be an indication of common interests. Data on viewership or listenership in the proposed community can support the existence of a community.

Most Persuasive	Statistical evidence indicates a significant portion of residents from throughout the proposed community view or listen to the local television and radio stations. The media has local stories focusing on the proposed community and has a marketing target area consistent with the proposed community boundaries.
Persuasive	The television and radio stations provide news and sports coverage specifically catering to the proposed community.
Not Persuasive	The area lacks television or radio stations serving the proposed community.

12. Shopping

The narrative must identify the location of the major shopping centers and malls and include the percentage of shoppers coming from each part of the community. The larger the percentage of shoppers from throughout the community, the stronger the case for interaction. While of lesser value than the shopping data, identification of the shopping center's target area can be persuasive. The target area should closely match the geographic boundaries of the proposed community.

Most Persuasive	The application provides statistics from a reliable third party source that demonstrates the major shopping facility cited in the application is the major shopping facility for the residents of the entire area.
Persuasive	The applicant provides documentation supporting how the area's shopping facilities cluster within the area's hub and residents do not have other realistic alternatives to meet their shopping needs.
Not Persuasive	The applicant lists large shopping facilities without providing statistics or other documentation that demonstrates relevance to the proposed community.

13. Geography

Some communities face varying degrees of geographic isolation. As such, travel outside the community can be limited by mountain ranges, forests, national parks, deserts, bodies of waters, etc. This factor, and the relative degree of isolation, may help bolster a finding of interaction or common interests.

Most Persuasive	Area is geographically isolated and/or distinct from immediate surrounding area.
Persuasive	Area has geographic commonalities that influence other aspects of the residents' lives (i.e., tourism, allocation of government resources).
Not Persuasive	The area's geographic features do not appear to influence other social or economic characteristics of the area.