

rulemaking. If these conditions cause a high probability of impairment following an accident, it is logical to assume that these conditions produce a similar outcome in the absence of or prior to an accident as well.”

The petitioners state that “[t]he NRC recognized from the TMI accident the need to strengthen the regulatory requirements for electrical equipment. The NRC revised its regulations to include specific requirements in 10 C.F.R. § 50.49, wherein § (e)(6) explicitly addressed the submergence factor[.]” The petitioners further state that “[t]he regulation did not further limit this requirement to where the cables and wires were located. But the NRC staff introduced such a limitation through \* \* \* Generic Letter 82-09, ‘Environmental Qualification of Safety-Related Electrical Equipment,’ [ADAMS Accession Number ML031080281], dated April 20, 1982[.]” The petitioners state that “[r]ain water and ground water routinely submerge underground cables and wires. The safety implications from the failure of a safety-related cable inside containment submerged by an accident, outside containment submerged by a high energy line break, or outside containment submerged by nature are identical—that safety function is lost. It matters little if the portion of a safety-related cable inside containment and the portion of that same cable outside containment in a high energy line break area survive if another portion of that same cable routed underground fails due to submergence.”

The petitioners further state that “[t]he TMI accident and laboratory testing have shown that moisture/submergence of electrical cables and wires significantly increase the probability of failure. Failure of the cables and wires also causes failure of connected components[.]” The petitioners assert that “NRC requirements only state that safety systems should remain functional and do not provide conditions or acceptance criteria for degraded cables. Additionally, cable degradation as an ongoing process is not a reported issue unless it leads to the failure of a cable system or it is discovered that the cables are operating in conditions for which they were not intended.” The NRC issued two Information Notices regarding submerged electrical cables, Information Notice 2002-12, “Submerged Safety-Related Electrical Cables,” (ADAMS Accession Number ML020790238) and Information Notice 2010-26, “Submerged Electrical Cables,” (ADAMS Accession Number ML102800456). The petitioners stated

that the NRC did not request specific action from the licensees. The petitioners further state that “[t]he observations in [Information Notice] 2010-26 range from licensee failures to establish preventative maintenance and test programs or their failure to verify and maintain suitable environments for series of electrical cable systems. In certain cases, the inspections discovered that a number of cable systems were being subjected to conditions for which they were not designed for, such as ‘continuous underwater environments,’ which led to concerning levels of insulation degradation and cable failure. These affected cable systems included safety-related power cables, where the inspectors noted that failures in these systems could disable important accident mitigation systems.”

In Staff Requirements Memorandum (SRM) for SECY-92-223, “Resolution of Deviations Identified During the Systematic Evaluation Program,” (ADAMS Accession Number ML003763736), dated September 18, 1992, the Commission provided direction to its staff regarding the applicability of the GDC. The petitioners state that “[t]he problem is that past NRC decisions have constrained or eliminated the applicability of these regulatory requirements” and “the Commission has determined that these requirements are *NOT* to be applied to the majority of reactors.” The petitioners further state that “[t]he regulation did not further limit this requirement to where the cables and wires were located.” The petitioners assert that a statement by Judge Ann Marshall Young “further expounds on the need for rulemaking and clarification of 10 C.F.R § 50.49 to address cables that may be exposed to harsh environments during normal, abnormal, and accident conditions. Electrical cables and wires are prone to accelerated failure rates when submerged in water or exposed to high humidity unless designed and qualified for these environmental conditions. The NRC’s regulatory requirements address environmental qualification of safety-related systems, structures, and components, including electric cables and wires.”

The petitioners state that “[t]his rulemaking will supplement and clarify NRC’s regulatory requirements to ensure that safety-related electrical cables and wires will be properly qualified for all the environmental conditions they may experience during routine operation and following accidents regardless of when a reactor received its construction permit or where the safety-related cable is located.”

Dated at Rockville, Maryland, this 21st day of September 2012.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2012-23792 Filed 9-26-12; 8:45 am]

**BILLING CODE 7590-01-P**

## **NATIONAL CREDIT UNION ADMINISTRATION**

### **12 CFR Part 701**

#### **RIN 3133-AE08**

#### **Payday-Alternative Loans**

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

**ACTION:** Advance notice of proposed rulemaking (ANPR).

**SUMMARY:** The NCUA Board (Board) is currently reviewing its regulation governing payday-alternative loans (PAL or PAL loans), formerly known as short-term, small amount loans. The Board intends to improve the regulation to encourage more federal credit unions (FCUs) to offer PAL loans and believes it may be necessary to amend the regulation. The Board seeks comment on how best to approach this. Although the Board identifies specific issues for discussion below, it encourages commenters to discuss any issue related to improving the regulation.

**DATES:** Comments must be received on or before November 26, 2012.

**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](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.

- *Email:* Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include “[Your name] Comments on Advance Notice of Proposed Rulemaking for Part 701, PAL Amendments” in the email subject line.

- *Fax:* (703) 518-6319. Use the subject line described above for email.

- *Mail:* Address to Mary Rupp, 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 Web site 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 email to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:** Frank Kressman, Associate General Counsel, Office of General Counsel, at the above address or telephone (703) 518-6540.

**SUPPLEMENTARY INFORMATION:**

- I. Background
  - A. The PAL Rule
  - B. Evaluation of PAL Data and Justification for the Rulemaking
- II. Questions for Comment

**I. Background**

*A. The PAL Rule*

On September 16, 2010, the Board amended its general lending rule to enable FCUs to offer PAL loans, previously referred to as short-term, small amount loans, as an alternative to predatory payday loans.<sup>1</sup> PAL loans can help certain members to break free of their dependency on high-cost payday loans. To help FCUs afford to make PAL loans, which tend to have higher rates of default than mainstream loan products, the PAL rule permits FCUs to charge a higher rate of interest for PAL loans if certain conditions are met.

The term "payday loan" generally refers to a small amount, short-term loan that is intended to cover a borrower's expenses until his or her next payday, which is when the loan is to be repaid in full.<sup>2</sup> Historically, payday loans have been made by lenders who charge high fees and often engage in predatory lending practices. While some payday loan borrowers use these loans sparingly, many find themselves in a cycle of having their loans "rollover" repeatedly, and they incur more high fees as a result. These borrowers are often unable to break free of this unhealthy dependence on payday loans.

As part of the solution, the Board is determined to provide a regulatory framework for FCUs to make PAL loans a viable alternative to predatory payday loans. The Board intends the PAL loan rule to provide short- and long-term benefits for current payday borrowers. In the short term, the rule provides

borrowers with a responsible alternative to high-cost payday loans. In the long term, the rule permits FCUs to offer borrowers a way to break the cycle of reliance on payday loans by building creditworthiness and transitioning to traditional, mainstream financial products.

The current PAL regulation permits FCUs to charge an interest rate for PAL loans that is 1000 basis points above the general interest rate set by the Board for non-PAL loans, provided the following conditions are met:

(1) The principal amount of the PAL loan is not less than \$200 and not more than \$1000;

(2) The PAL loan has a minimum maturity term of one month and a maximum maturity term of six months;

(3) The FCU does not make more than three PAL loans in any rolling six-month period to any one borrower and makes no more than one PAL loan at a time to a borrower;

(4) The FCU does not rollover any PAL loan;

(5) The FCU fully amortizes the loan;

(6) The FCU sets a minimum length of membership requirement of at least one month;

(7) The FCU charges an application fee to all members applying for a new PAL loan that reflects the actual costs associated with processing the application, but in no case may the application fee exceed \$20; and

(8) The FCU includes, in its written lending policies, a limit on the aggregate dollar amount of PAL loans made to a maximum of 20% of net worth and implements appropriate underwriting guidelines to minimize risk; for example, requiring a borrower to verify employment by producing at least two recent pay stubs.<sup>3</sup>

The rule also includes a best practices section, which discusses ways to help ensure the product remains viable and responsible.

*B. Evaluation of PAL Data and Justification for the Rulemaking*

In the 2010 rulemaking, the Board indicated that, after one year, it would review the PAL loan data collected on the 5300 call reports and reevaluate the requirements of the rule.<sup>4</sup> As of September 30, 2011, 372 FCUs reported offering PAL loans with an aggregate balance of \$13.6 million on 36,768 outstanding loans.

The most recent data shows that as of June 30, 2012, 420 FCUs reported offering PAL loans with an aggregate balance of approximately \$16.7 million on 41,264 outstanding loans.

The Board notes that, during this nine-month period, there was a slight increase in the number of participating FCUs, and it commends those FCUs that offer PAL loans to their members. The Board intends to increase the participation level in a meaningful way and ensure that all FCUs that choose to offer PAL loans are able to recover their costs.

The Board acknowledges that some FCUs may choose not to offer PAL loans because their members do not need them. Further, the Board recognizes that some FCUs offer other non-PAL loan products and services to their members that also reduce dependence on traditional payday lenders. Nevertheless, there are many credit union members who would benefit greatly from enhanced access to PAL loans. Accordingly, the Board is committed to making PAL loans a more widespread product for those members who need them and making it easier and more affordable for those FCUs that choose to offer them. NCUA advises that an FCU can only make PAL loans available to its members if the FCU can afford to make these loans.

**II. Questions for Comment**

The Board is considering ways to improve the PAL regulation. An increase in the permissible application fee may enable FCUs with higher application processing costs to afford to offer PAL loans to their members. The Board understands that actual costs to process an application may be higher for some FCUs based on geographic location or the level of underwriting a particular FCU chooses to conduct. While the Board does not expect FCUs to generate a large return from these loans, it does not expect FCUs to offer PAL loans at a loss, which could threaten the FCUs' safety and soundness.

The Board could consider increasing the permissible application fee without making any other changes or it could increase the fee in conjunction with a decrease in the permissible loan interest rate. The Board understands that some credit unions prefer not to charge a higher interest rate on PAL loans, but must do so to offset the higher degree of risk associated with these loans. The Board invites comment on if a higher application fee cap alone would encourage more credit unions to make PAL loans or if credit unions would prefer any application fee increase to be linked with a lower permissible interest rate.

Although the Board is considering increasing the maximum application fee, the Board notes that under

<sup>1</sup> 75 FR 58285 (Sept. 24, 2010).

<sup>2</sup> NCUA Instruction 10200, Credit Union Online Instruction Guide, page 32 (12/2009).

<sup>3</sup> 12 CFR 701.21(c)(7)(iii).

<sup>4</sup> *Id.* at 58288.

Regulation Z (Reg Z), an application fee may only serve to recoup the actual costs incurred by an FCU to process a PAL loan application. FCUs would still need to accurately account for their costs in determining a permissible application fee, and they would not be able to use this fee to offset losses associated with this type of lending. NCUA will continue to scrutinize these fees to ensure compliance with Reg Z and ensure PAL loans remain a beneficial product for FCU members.

In addition to seeking comment on the application fee and interest rate, the Board seeks comment on all aspects of the regulation. The questions enumerated below are intended to stimulate commenter response and suggest areas where NCUA may improve the rule to encourage more FCUs to offer PAL loans. Commenters should feel free to comment on any aspect of the PAL regulation. Of course, commenters should include reasonable justification for all comments provided.

Additional Questions for Consideration

(1) Should the Board increase the permissible PAL loan interest rate, which is currently set at 28% (based on 1000 basis points above the maximum interest rate established by the Board for non-PAL loans)?

(2) Should the Board expand the permissible loan range, which is currently set from \$200 to \$1000?

(3) Should the Board permit PAL loan maturities of shorter than one month or longer than six months?

(4) Should the Board allow FCUs to make more than one PAL loan at a time to a borrower?

(5) Should the Board eliminate or decrease the one-month minimum length of membership requirement?

(6) Should the Board increase the limit on the permissible aggregate dollar amount of loans made, which currently is 20% of an FCU's net worth?

In addition to soliciting comments on the current PAL rule, the Board is also interested in learning about viable payday-alternative products credit unions are currently offering their members. The Board invites commenters to describe products and programs they offer and to share details about the business models they use to execute successful programs.

By the National Credit Union Administration Board on September 21, 2012.

Mary Rupp,

Secretary of the Board.

[FR Doc. 2012-23718 Filed 9-26-12; 8:45 am]

BILLING CODE 7535-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 357

[Docket No. RM12-18-000]

Revisions to Page 700 of FERC Form No. 6

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to modify Page 700 of FERC Form No. 6 (Form 6) to facilitate the calculation of a pipeline's actual return on equity. The Commission proposes to expand the information provided

regarding rate base (line 5), rate of return (line 6), return on rate base (line 7), and income tax allowance (line 8).

DATES: Comments are due November 26, 2012.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

• Electronic Filing through: http://www.ferc.gov. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document

FOR FURTHER INFORMATION CONTACT:

James Sarikas (Technical Information), Office of Energy Market Regulation, 888 First Street NE., Washington, DC 20426, (202) 502-6831, James.Sarikas@ferc.gov.

Brian Holmes (Technical Information), Office of Enforcement, 888 First Street NE., Washington, DC 20426, (202) 502-6008, Brian.Holmes@ferc.gov.

Andrew Knudsen (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502-6527, Andrew.Knudsen@ferc.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background ..... 2
II. Discussion ..... 6
A. Rate Base ..... 9
B. Rate of Return ..... 11
C. Composite Tax Return ..... 13
III. Information Collection Statement ..... 19
IV. Environmental Analysis ..... 25
V. Regulatory Flexibility Act [Analysis or Certification] ..... 26
VI. Comment Procedures ..... 27
VII. Document Availability ..... 31

(Issued September 20, 2012)

1. The Federal Energy Regulatory Commission (Commission) proposes to modify the reporting requirements on Page 700, Annual Cost of Service Based Analysis Schedule, of FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form 6), to facilitate the

calculation of a pipeline's actual rate of return on equity based upon Page 700 data. The modifications to Page 700 include requiring additional information regarding rate base, rate of

return, return on rate base, and income taxes.<sup>1</sup>

<sup>1</sup> Concurrent with the issuance of this NOPR, the Commission is issuing a final rule in Docket No. RM11-21-000, Revision to Form No. 6.