will be used to make up the expected deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 1999 marketing season could range between $7.00 and $12.00 per 50-pound container or equivalent of onions. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue could range between .571 and .333 percent.

This action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 16, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on August 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the proposed rule would decrease the assessment rate for assessable onions beginning with the 1999–2000 fiscal period; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 1999, an assessment rate of $0.04 per 50-pound container or equivalent is established for South Texas onions.

Dated: November 8, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–30813 Filed 11–24–99; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: Under National Credit Union Administration's regulations, a federal credit union is allowed to offer group purchasing activities, including insurance plans, to its members. For group purchasing plans other than insurance, a federal credit union is limited to reimbursement up to its cost amount. NCUA is soliciting public comment on, among other things, whether NCUA should amend this regulation to set forth credit union's incidental powers that would not have a limit on reimbursement. Information from interested parties will assist NCUA in determining whether to issue a proposed rule on incidental authorities and group purchasing.

DATES: The NCUA must receive comments on or before February 24, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or you may fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney or Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

Currently, Part 721 sets forth the rules governing federal credit union (FCU) group purchasing activities, including insurance plans. Group purchasing activities are generally understood to mean FCUs making the products or services of third-party vendors available to their members. FCUs may provide an endorsement and perform administrative functions on behalf of the vendors. 12 CFR 721.1.

Part 721 was originally issued as a way to foster the educational role of credit unions.

The regulation evolved into a method for credit unions to provide information, products and services to their members through outside vendors. For group purchasing plans other than insurance, a federal credit union is limited to reimbursement up to its ''cost amount.'' 12 C.F.R. 721.2(a)(2) For insurance products, except as otherwise provided by state law, compensation is unlimited with respect to insurance sales, by the credit union or its employees, which are directly related to an extension of credit by the credit union or directly related to the opening or maintenance of a share, share draft or share account at the credit union.

The legal authority for the activities covered by Part 721 is the incidental powers provision of the Federal Credit Union Act. That provision states that a federal credit union may ''exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.'' 12 U.S.C. 1757(17). NCUA's current test of what is an incidental power is whether the activity is convenient or useful to the credit union's business as expressly authorized by the Federal Credit Union Act. NCUA's position on incidental

powers has been based on *Arnold Tours, Inc.* v. *Camp,* 472 F.2d 427 (1st Cir. 1972). This case established a test for determining the incidental powers of national banks. Recent case law has broadened the analysis of incidental powers for banks, and we believe that it is time to revisit the scope of that authority for credit unions.

In *Arnold Tours,* the court derived incidental powers solely from the express powers enumerated in the National Bank Act. The court examined whether a national bank was exercising an incidental power by operating a full-scale travel agency. National banks may exercise ''all such incidental powers as shall be necessary to carry on the business of banking.'' 12 U.S.C. 24 (Seventh). The court found that ''[t]he most reliable guides as to what is encompassed in the term 'the business of banking' are the express powers of national banks.'' 472 F.2d at 431. In determining that banks could not operate travel agencies, the court held:

> [A] national bank's activity is authorized as an incidental power, ''necessary to carry on the business of banking'' . . . if it is convenient or useful in connection with the performance of one of the bank's established activities pursuant to its express powers under the National Bank Act. If this connection between an incidental activity and an express power does not exist, the activity is not authorized as an incidental power.

Id. at 432.

The court's incidental powers test looked to whether the activity was convenient or useful to the express power authorized by the law.

However, recent case law has broadened the ''business of banking'' analysis and expanded the incidental powers of national banks. In an appellate case where a bank wanted to establish a subsidiary to offer municipal bond insurance, the court held that insuring such bonds was functionally equivalent to the issuance of stand-by letters of credit, a product permitted within the business of banking. *American Insurance Association* v. *Clarke,* 865 F.2d 278 (D.C. Cir. 1988). Expanding the test of *Arnold Tours,* the court explained:

> Appellant argues that a bank may engage only in those activities specifically mentioned and others incident (i.e. convenient or useful) to the expressly authorized activities. We agree with the district court, however, that this reflects ''a narrow and artificially rigid view of both the business of banking and the National Bank Act.'' 656 F.Supp at 408. Rather than attempt to correlate municipal bond insurance to a specific power mentioned in section 24(Seventh), the Comptroller focused on the essence of [the subsidiary's] service: the provision of credit.

Id. at 281.

Another court found that national banks were permitted to offer debt cancellation contracts. ''The 'incidental powers'' of national banks are not limited to activities that are deemed essential to the exercise of express powers. Rather, courts have analyzed the issue by asking whether the activity is closely related to an express power and is useful in carrying out the business of banking.'' *First National Bank of Eastern Arkansas* v. *Taylor,* 907 F.2d 775, 778 (8th Cir. 1990). The court found that debt cancellation contracts were directly related to the bank's lending activities. The court also found that these contracts were a convenient method of extinguishing debt to avoid the costs of collection efforts.

The U.S. Supreme Court continued this trend in *Nationsbank of North Carolina* v. *Variable Annuity Life Insurance Co.* (VALIC), 513 U.S. 251 (1995). In *VALIC,* the Court examined whether a national bank's subsidiary could act as an agent in the sale of annuities. The Court agreed with the Comptroller that the business of banking includes the brokerage of financial investment instruments. As such, national banks may ''serve as agents for their customers in the purchase and sale of various financial investment instruments * * * and annuities are widely recognized as just such investment products.'' *Id.* at 259. In evaluating the case, the unanimous Court stated:

> We expressly hold that the ''business of banking'' is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated. The exercise of the Comptroller's discretion, however, must be kept within reasonable bounds. Ventures distant from dealing in financial investment instruments—for example, operating a general travel agency—may exceed those bounds.

Id. at 259, n. 2.

Subsequent case law has applied this less restrictive analysis. An appellate court found that a division of a national bank could enter into engagement contracts as a broker. The court gave deference to the OCC's finding that ''allowing banks to use their expertise as an intermediary effectuating transactions between parties facilitates the flow of money and credit through the economy'' and therefore falls within the bank's incidental powers necessary to carry on the business of banking. *Norwest Bank Minnesota, N.A.* v. *Sween Corporation,* 118 F.3d 1255, 1260 (8th Cir. 1997).

Recent OCC opinions exemplify that agency's approach to the incidental powers question. In one instance, the OCC found a bank subsidiary was permitted to underwrite credit related insurance for credit cards and safe deposit box liability insurance. OCC Corporate Decision #97–92, November 1997. The OCC first considered whether the activity was viewed as part of the ''business of banking,'' and then to whether the activity was incidental to the business of banking. Based on a string of judicial decisions, the OCC uses the following three principles to determine whether an activity is within the scope of the ''business of banking'': (1) Is the activity functionally equivalent to or a logical outgrowth of a recognized banking activity; (2) would the activity respond to customer needs or otherwise benefit the bank or its customers; and (3) does the activity involve risks similar in nature to those already assumed by banks.'' *Id.* at 3.

The NCUA Board believes that recent case law allows the agency to adopt a more expansive view of a credit union's incidental power authority. In addition, the NCUA Board has found the OCC's analysis persuasive and is requesting comment on whether NCUA should adopt a similar position.

B. How the Regulation Should Be Amended

The NCUA Board is considering retitling the regulation, ''Incidental Powers and Group Purchasing Activities,'' and restructuring it into four distinct sections. As discussed above, the NCUA Board is considering expanding its view of the incidental powers of an FCU.

The NCUA Board is considering and seeking specific comment on the structure of the first section regarding incidental powers. This section would list activities, or categories of activities, considered to be within the incidental powers of a federal credit union. At this time, descriptions of what specific activities are permissible as an exercise of an FCU's incidental powers are found in legal opinions issued by the Office of General Counsel. For example, among other activities, NCUA opinion letters have stated that electronic tax filing, raffles to encourage member voting, and check clearing services for a sponsor/member are all permissible incidental powers activities. The preamble to this section would list those activities or categories of activities currently permitted and specify that the list is illustrative but not exclusive. The NCUA Board believes it may be helpful

for credit unions if the agency listed, in addition to the approved activities, or categories of activities, a process for a credit union to request additional activities that may be within the credit union's incidental authority. The NCUA Board would specify the manner in which credit unions could apply for confirmation that an incidental power is permissible. The NCUA Board further requests that commenters suggest standards to be considered when analyzing the permissibility of an activity, or a category of activities as an incidental power. The Board is also interested in receiving comments on examples of activities and categories of activities which could be considered as incidental to the business of credit unions.

Some credit unions may not realize they may earn money from their incidental power activities. Therefore, staff is considering whether the revised regulation should explicitly state that FCUs are not limited in the amount they may earn from incidental powers activities to clear up any lingering confusion.

The second section would authorize group purchasing activities and limit compensation to the credit union's cost amount. Generally, this section would track the current regulation. The NCUA Board believes it may be helpful to include a fuller description of what a group purchasing plan is and clarify ''cost amount.'' The NCUA Board is also considering including in the regulation a provision regarding the sale of mailing lists. The provision would likely incorporate NCUA's long-standing position that an FCU may sell mailing lists as a means of facilitating group purchasing for members but that, as for all group purchasing activities, an FCU's compensation is limited. In connection with a provision on mailing lists, the NCUA Board intends to incorporate its longstanding view that no information about the member other than a member's name and address, such as personal information about the member's business with the credit union, can be included in the sale of the mailing list. This view is consistent with NCUA's longstanding interpretation of the confidentiality provision contained in the standard FCU Bylaws. The NCUA Board is also requesting comment on whether a member should have the option to elect to have their name deleted from any mailing list provided to a third party.

The NCUA Board is seeking comment on the limit of compensation to the credit union's cost amount, whether any limit is appropriate, and should reasonable value be added to the credit union's cost when applying the compensatory limit. The NCUA Board is also requesting comment on how the term ''reasonable value'' should be defined.

The third section would focus on insurance products activities as a longstanding incidental authority. This section would track the current regulation and state that an FCU may receive unlimited compensation with respect to the sale of insurance products that are directly related to a credit union loan or the opening and maintenance of any type of share account. In addition, the term ''insurance products'' would be defined for purposes of this regulation.

The fourth section would set forth the current conflict of interest provision applicable to group purchasing activities, including insurance activities. The regulation currently states that ''[n]o director, committee member, or senior management employee of a Federal credit union or any immediate family member of any such individual may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under this Part.'' The current section defines ''immediate family member'' and ''senior management employee,'' but the meaning of the phrase ''in conjunction with any activity'' has been the cause of some confusion. Thus, the NCUA Board believes it would be helpful to clarify how this phrase should be applied.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30695 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–51–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain General Electric Company (GE) GE90 series turbofan engines. This proposal would reduce the cyclic life limits for certain mid fan shafts with undesirable microstructure, and remove from service those mid fan shafts prior to exceeding the new limits and replace with serviceable parts. Reports of magnetic particle inspections conducted by the manufacturer identifying segregation in the raw material, resulting in lower fatigue life properties, prompted this proposal. The actions specified by the proposed AD are intended to prevent mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–51–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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