NATIONAL CREDIT UNION ADMINISTRATION
WASHINGTON, D.C. 20456

October 31, 1991

Joseph G. Riegert,
President/General Manager
Hughes Federal Credit Union
P.O. Box 11900
Tucson, Arizona 85734-1900

Re: Federal Credit Union Sale of Mechanical Breakdown Insurance (Your September 12, 1991 Letter)

Dear Mr. Riegert:

You asked the following questions with regard to federal credit union ("FCU") sale of mechanical breakdown insurance. (1) May an FCU sell insurance? Yes, if allowed by state law. (2) May an FCU accept income from the sale of insurance, and, if so, can the income be classified as a commission as opposed to an administrative cost? Yes to both questions if the sale of insurance is directly related to a loan. (3) May an FCU be licensed as a selling agency? Yes, if permitted by state law. Our reasoning is set forth below.

Background

Hughes Federal Credit Union ("Hughes") has been offering mechanical breakdown insurance to its members for several months. The insurance is sold at the time that a loan is made for the purchase of the vehicle being insured. A number of loan officers at Hughes have been licensed to sell the insurance. Recently, a loan officer's license application was returned by the State of Arizona, with a statement that Hughes itself had to become licensed as an insurance selling agency in order for the loan officers to be licensed to sell the mechanical breakdown insurance.

FOIA Vol. II, A, 3, Vol II. D

You state that Hughes was under the impression that selling mechanical breakdown insurance and acceptance of income from such sales were permissible under Section 721.2(b)(1) of NCUA's Rules and Regulations (the "Regulations"), as long as the income was covering Hughes' administrative costs. Hughes now questions whether it is authorized to sell the insurance at all, and to accept compensation for the sale.

Analysis

1. May an FCU sell insurance?

Part 721 of the Regulations, 12 C.F.R. Part 721 (copy enclosed), governs FCU participation in insurance and group purchasing plans. Section 721.1 authorizes an FCU to "make insurance and group purchasing plans involving outside vendors available to membership (including endorsement)" and to "perform administrative functions on behalf of vendors." An FCU's participation in insurance activity for the benefit of its members may be authorized in either of two ways: (1) as incidental to the exercise of an express statutory power, such as the power to make loans to members or the power to accept share, share draft and share certificate accounts; or (2) as a good will service to the membership. As the NCUA Board noted in the preamble to the 1985 revision of Section 721.2, there are a number of options open to an FCU seeking to make insurance available to its members, including "serv[ing] as an insurance agent and receiv[ing] compensation as such." 50 Fed. Reg. 16464, April 26, 1985 (copy enclosed). An FCU cannot, however, invest in an insurance company or underwrite insurance. See Section 107(7)(I) of the FCU Act, 12 U.S.C. §1757(7)(I).

We note, however, that some states may not permit an FCU to act as an insurance agent. While it has long been our position that an FCU may make insurance available to its members pursuant to the Federal Credit Union Act, 12 U.S.C. Section 1751 et seq (the "Act"), and the NCUA Regulations, we have consistently held that any FCU doing so must comply with any state regulations on insurance activities. Hughes should consult its local counsel for advice on complying with Arizona insurance law.

2. May an FCU accept income from the sale of insurance? If so, can the income be classified as a commission, or must it be considered an administrative cost?

An FCU may accept income from the sale of insurance. The amount of income allowable depends upon whether the sale is incidental to the power to make loans or accept accounts (Section 721.2(b)(1)), or is merely a good will function (Section 721.2(b)(2)).

The mechanical breakdown insurance sold by Hughes is "directly related to an extension of credit by the credit union." Therefore, under Section 721.2(b)(1), the amount of compensation that Hughes may receive is unlimited, unless otherwise provided by state law. Contrary to the suggestion in your letter, NCUA Regulations do not limit the amount of compensation receivable -- for the sale of insurance directly related to the making of a loan -- to the amount of the FCU's administrative costs.

In cases where the insurance is not directly related to the making of a loan or the opening or maintenance of an account, compensation is limited to the greater of the "dollar amount" or the "cost amount" incurred by the FCU in providing the insurance to its members. Section 721.2(b)(2). The "dollar amount" limitation is $4 per single policy, $6 per combination policy, or $4 per annum for any other type of policy. Section 721.2(a)(1). The "cost amount" limitation is the total of the direct and indirect costs to the FCU of any administrative functions performed on behalf of the insurance vendor. The FCU must be able to justify the cost amount using standard accounting procedures. Section 721.2(a)(2). The guidelines set forth in Section 5200.6 of the NCUA Accounting Manual should be followed in computing the "cost amount."

We note that some states do not classify mechanical breakdown coverage as insurance. Hughes should obtain an opinion on this issue from its local counsel. In the event that mechanical breakdown coverage is not treated as insurance under state law, an FCU's compensation would be limited to the cost amount. Section 721.2(b)(3).

You state in your letter that several of Hughes' loan officers have been licensed to sell insurance. While this is permissible, we wish to point out that FCU officials and employees are generally prohibited from receiving commissions for products sold pursuant to Part 721. Section 721.2(c) prohibits FCU directors, committee members and senior management employees and their immediate families from receiving any compensation or benefit, directly or indirectly, in conjunction with vendor products. That prohibition also applies to other FCU employees unless the FCU's board of directors determines that the employee's involvement does not present a conflict of interest. Section 721.2(d). Where an FCU official or employee is licensed as an insurance agent and receives compensation as such, the full amount of the compensation must be assigned to the FCU, see, 50 Fed. Reg. 16464, April 26, 1985, unless the person licensed is an employee and the board determines that there is no conflict, as discussed above.

You also asked whether the FCU may classify the income as a commission, instead of treating it as an administrative cost. We are unable to provide a definitive answer to this question, since we are uncertain as to exactly what you mean by "treating it as an administrative cost." However, Section 5200.4 of NCUA's Accounting Manual (copy enclosed) indicates that reimbursement fees received from insurance companies when the FCU has facilitated members' purchase of insurance should be accounted for as "miscellaneous operating income." It seems to us that, logically, compensation in excess of the "dollar amount" or "cost amount" reimbursement should be treated in the same way. If Hughes has further questions on this issue, we suggest that it consult with its NCUA examiner.

3. May an FCU be licensed as a selling agency?

The Act and the Regulations neither expressly authorize an FCU to hold a license as an insurance agent, nor forbid the same. As noted above, an FCU may make insurance available to its members. If, as appears to be the case, Arizona law requires an FCU to obtain an insurance agent's license in order to market insurance to its members, nothing in the Act or the

Regulations would preclude the FCU from doing so. Again, Hughes should consult its own attorney to determine how to comply with Arizona's requirements in this area.

Sincerely,

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

Enclosures

GC/MRS:sg
SSIC 3500
91-0918

Part 721

Federal Credit Union Insurance and Group Purchasing Activities

§721.1 Authority.

A Federal credit union may make insurance and group purchasing plans involving outside vendors available to the membership (including endorsement), and may perform administrative functions on behalf of the vendors.

§721.2 Reimbursement.

(a) For purposes of paragraph (b) of this section, the following definitions shall apply:

(1) "Dollar amount" shall mean $4 per single payment policy, $6 per combination policy, or $4 per annum for any other type of policy; and

(2) "Cost amount" shall mean the total of the direct and indirect costs to the Federal credit union of any administrative functions performed on behalf of the vendor. The Federal credit union must be able to justify this amount using standard accounting procedures.

(b) A Federal credit union may be reimbursed or compensated by a vendor for activities performed under §721.1 as follows:

(1) Except as otherwise provided by applicable state insurance law, reimbursement or compensation is not limited 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 certificate account at the credit union;

(2) For insurance sales other than those described in paragraph (b)(1), a Federal credit union may receive an amount not exceeding the greater of the dollar amount or the cost amount;

(3) For group purchasing plans other than insurance, a Federal credit union may receive an amount not exceeding the cost amount.

(c) No 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. For purposes of this Section, "immediate family member" means a spouse or other family member living in the same household; and "senior management employee" means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

(d) The prohibition contained in subsection (c) also applies to any employee not otherwise covered if the employee is directly involved in insurance or group purchasing activities unless the board of directors determines that the employee's involvement does not present a conflict of interest.

(e) All transactions with business associates or family members not specifically prohibited by subsection (c) must be conducted at arm's length and in the interest of the credit union.

that the member guarantees (to the satisfaction of the Corporation) the over-the-counter financial options transactions between its parent, subsidiary, or affiliated entity with an insured institution, and *Provided further*, that the parent, subsidiary or affiliated entity is substantially engaged in similar activities.

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(c) *Authorized contracts.* An insured institution may engage in financial options transactions using any financial-options contracts either (1) designated by the Commodity Futures Trading Commission or approved by the Securities and Exchange Commission; or (2) entered into with a primary dealer in government securities, and based upon a financial instrument that the institution has authority to invest in or to issue, or based upon a financial futures contract.

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(e) *Notification and reporting.* (1) An insured institution shall notify the District Director—Examinations of the Federal Home Loan Bank district in which it is located immediately following authorization of its board of directors to engage in financial options transactions. The institution shall report its outstanding positions together with the total unrealized gain or loss from such positions to the Board.

(2) An insured institution shall not engage in an over-the-counter financial options transaction with any primary dealer unless such primary dealer notifies the District Director—Examinations of the Federal Home Loan Bank district in which the insured institution is located immediately following the entering into such transaction, and reports monthly on the outstanding positions of such insured institution.

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(g) *Accounting.* • • •

(2) *Option commitment fee.* (i) The option commitment fee paid for a long position or received from the sale of a short put option shall be amortized to income or expense over the term of the option, except as provided in paragraph (g)(3)(ii) of this section.

(ii) The option commitment fee received from the sale of a matched short call option shall be deferred and treated as a discount on the matched asset. The option commitment fee received from the sale of an unmatched short call option shall be amortized to income over the term of the option.

(3) *Options contracts.* (i) Gains or losses on options contracts that are matched with assets or liabilities carried at the lower of cost or market value or carried at market value shall be considered in determining the market value of the asset or liability.

(ii) Options positions that are matched with assets or liabilities carried at cost or to be carried at cost shall be accounted for as follows:

(*a*) If a commitment fee will be or has been received with respect to the matched asset, the option commitment fee shall be treated as an adjustment of such fee. The adjusted commitment fee shall then be treated as a fee paid or received in connection with the matched asset;

(*b*) If a commitment fee has not been received with respect to a matched asset, the option commitment fee (except if received for the sale of a short call option) shall be amortized to income or expense over the commitment period by the straight-line method;

(*c*) Any resulting gain or loss from an option position shall be treated as a discount or premium on the matched asset or liability;

(*d*) In the event that the cash-market or forward-commitment position with which an option is matched is sold or will not occur, the option shall be marked to market.

(iii) The immediate exercise value of short puts and other unmatched option positions shall be carried at their current market value.

(Sec. 409, 94 Stat. 168, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85–10032 Filed 4–25–85; 8:45 am]

BILLING CODE 6720–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR PART 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA amends its regulations in order to allow Federal credit unions to receive income in connection with the sale to their members of credit-related insurance and share account-related insurance. Previous rules limited Federal credit unions to receiving reimbursement from the insurances company for the credit union's administrative costs. The rule is issued with a delayed effective date (August 1, 1985) so that Federal credit unions will have sufficient time to study the effects of and prepare to comply with relevant state insurance laws.

EFFECTIVE DATE: August 1, 1985.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Director, or Hattie M. Ulan, Attorney, Department of Legal Services at the above address or telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Background

Part 721 of NCUA's Rules and Regulations authorizes Federal credit union (FCU) participation in insurance and other group purchasing activities, through which insurance and other goods and services are made available from third party vendors to credit union members. Part 721 has two sections. Section 721.1 authorizes FCU's to perform administrative functions for the vendor. Section 721.2 generally limits FCU's to receiving reimbursement for the cost of their involvement in the insurance or group purchasing activity.

In July of 1984, the NCUA Board requested public comment on a proposed change to § 721.2 that would allow FCU's to receive income in excess of cost in connection with the sale of credit-related insurance to members. (See 49 FR 30739, 8/1/84.) The proposal was based in part on NCUA's determination that an FCU may, as a matter of law, be permitted to generate income in connection with an insurance or group purchasing activity that is "incidental" to the exercise of an expressly authorized power (e.g., the power to make loans to members). The Board also requested comment on whether any other insurance or group purchasing activity (in addition to credit-related insurance) may be considered incidental to the exercise of an express power, and if, so, whether § 721.2 should be amended to allow FCU's to generate income from those activities as well.

NCUA received a total of seventy comment letters in response to the proposal. Two credit union trade associations, one insurance underwriter, two insurance trade associations, four state credit union leagues, one state credit union service system, one attorney, eight insurance agencies and forty-five credit unions responded to the proposal. Forty-eight commenters favored removing the reimbursement

restrictions on credit-related insurance and twenty-one commenters were opposed. The majority of the credit unions favored removing the restrictions, while the insurance representatives were generally opposed.

After review of the comments and further consideration of the issues, the Board has determined to remove the reimbursement limits for insurance directly related to extensions of credit and for insurance directly related to the opening and maintenance of share, share certificate and share draft accounts. The following analysis addresses the major issues raised in the proposal and in the comment letters.

Analysis

Authority

Federal credit unions, like all financial institutions, are institutions of statutorily limited powers. The powers of FCU's are enumerated in section 107 of the Federal Credit Union Act (12 U.S.C. 1757). Included are several specific powers, such as the power to make loans to members, to make certain investments, and to accept share, share draft and share certificate accounts. The various specific powers are followed by the authority "to exercise such incidental powers as shall be necessary or requisite to enable [the FCU] to carry on effectively the business for which it is incorporated." (12 U.S.C. 1757(15).) Prevailing case law construes this "incidental powers" clause to authorize activities that are "convenient or useful in connection with performance of one of [the credit union's] established activities pursuant to its express powers." *American Bankers Association* v. *Connell*, 447 F. Supp. 296, 298 (D.D.C., 1978).

The NCUA Board has consistently construed the powers of Federal credit unions broadly, in order to afford maximum flexibility to FCU's in providing services to their members. It is clear, however, that a Federal credit union may engage in an insurance or group purchasing activity for the purpose of generating income only if that activity is expressly authorized or is properly incidental to the exercise of an express power. Involvement in "nonincidental" insurance and group purchasing is permitted on a cost reimbursement basis on the theory that the FCU is not engaging in the particular activity or business, but rather is simply providing informational or good-will services to members and receiving reimbursement for the cost of the FCU's involvement.

Scope of Rule Change

Consistent with the above analysis, and after review of the comments, the Board has determined to eliminate the reimbursement restrictions for any sale of insurance which is "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 certificate account at the credit union." (See § 721.2(b)(2) of the final rule.)

Included among the types of insurance that may be incidental to an extension of credit by an FCU are: credit life insurance, credit disability insurance, loss of income insurance, property and casualty insurance on motor vehicles, boats and residential dwellings, title insurance, mortgage guarantee insurance, and mechanical breakdown insurance on motor vehicles. Life savings insurance is the primary existing example of share-related insurance of which the Board is aware. Most FCU's that offer life savings insurance do so pursuant to a group plan under which the FCU itself pays the premium for all members. Some FCU's have chosen, however, to offer life insurance on a member-pay basis in connection with share, share certificate and share draft accounts. In addition, other credit unions are offering life and disability insurance in connection with IRA accounts.

Federal credit union involvement in other insurance and in group purchasing of other goods and services will continue to be limited to a cost reimbursement basis.

Reverse Competition

In its proposal, the Board asked whether reimbursement restrictions should be retained in order to prevent "reverse competition" in the sale of credit insurance. That is, it has previously been suggested that in the absence of reimbursement restrictions, credit unions would seek out insurance paying the highest commission, without due regard for the cost of the insurance to the members. Commenters argued fervently on both sides of the issue. Those who argued that reverse competition exists insisted that lifting the reimbursement cap for credit insurance would increase costs to credit union members while decreasing their benefits. Those in favor of lifting the reimbursement caps argued that reverse competition will not occur in credit unions. Rather, the credit union will have an opportunity to receive income that is presently paid to other parties, and the benefits of increased compensation on credit insurance will accure to the credit union members as increased dividends on savings, lower interest rates on loans and/or increased services to members.

The majority of the commenters who argued that reverse competition will develop were not FCU's. In fact, only two FCU commenters expressed the view that reverse competition will become a problem if the reimbursement restrictions on credit insurance are lifted.

While the NCUA Board appreciates the concerns expressed with respect to the potential for reverse competition in the credit insurance market, the Board believes that the ability to prevent such developments can and should properly be placed in the hands of Federal credit unions and Federal credit union management. Credit unions are cooperative member-owned institutions. The entire board of directors is elected by the membership, and thus is continuously accountable to the interests of the member. Moreover, the directors serve as volunteers. Directors and employees are and will continue to be prohibited from personally receiving commissions or other forms of compensation in connection with credit insurance sales (see § 721.2(c) of the regulation). Thus, there is little incentive for a credit union to simply seek out the insurance product paying the highest commissions. To the extent that Federal credit unions do choose to receive commissions or other income, that income should redound to the benefit of the entire membership as discussed above.

Also concerning the issue of whether FCU's should be allowed to receive income, the Board notes that many credit unions now receive commission income indirectly by establishing credit union service organizations that receive the commission income and pay it through to the credit union as a return on the credit union's investment in the service organization. Allowing FCU's the choice of receiving the income directly will recognize what is currently taking place in the marketplace and eliminate the need for the artificial device of establishing a service organization. Finally, with respect to reverse competition, the Board notes that if the evidence at a future date demonstrates that Federal credit union members are paying dramatically higher insurance premiums as a result of the removal of compensation limits, NCUA can and will reconsider this issue.

State Insurance Law

As noted in the Board's proposal, Federal credit unions' obligation to

comply with state insurance laws is not affected by a change to NCUA's regulation. It is not NCUA's intent to interfere with the authority and ability of state insurance commissioners to regulate insurance activities. Although FCU's will not be subject to NCUA limits on credit-related and share-related insurance under the new regulation, they are subject to any state regulations on all insurance activities.

For example, most states impose licensing requirements upon entities receiving insurance compensation in excess of cost. A few of the commenters opposed to lifting the reimbursement restrictions stated that the potential licensing requirements will impose too much of a regulatory burden upon FCU's. The Board does not believe this to be the case for two reasons. First, a credit union may choose not to increase the compensation it receives for credit-related and share-related insurance. Federal credit unions that choose to limit their reimbursements to actual costs, or to a cost approximation that is acceptable to the state insurance commission, may not be subject to licensing requirements under state laws. Second, if an FCU receives compensation in excess of costs, the delayed effective date of the new regulation (August 1, 1985) will allow FCU's adequate time to educate themselves as to any licensing or other requirements that apply.

One commenter raised the issue of assignment of insurance commissions. Apparently, in some states a financial institution may not be licensed as an insurance agent. A natural person must be licensed as the agent in order to receive insurance commissions above costs. NCUA will have no objection to an employee or official of the FCU becoming licensed as an insurance agent on the condition that *all* insurance income received as agent is assigned to the FCU. This can be accomplished through a contractual arrangement between the employee/agent and the FCU.

The FCU must be in compliance with state insurance laws. This includes state laws on licensing, receipt of compensation and insurance-related unfair or deceptive practices. Various methods of receiving insurance compensation may be proper under different state laws. The following is a nonexclusive list of methods which may be available to FCU's:

—an FCU may serve as an insurance agent and receive compensation as such.
—an FCU employee or official may be licensed as an insurance agent and receive compensation so long as the employee or official assigns all compensation to the FCU.
—an FCU may acquire a group credit insurance policy and provide coverage to its members for loans made to them under such a policy. The FCU may receive experience refunds, dividends or retrospective rate credits from the insurance company as provided in the group policy.
—an FCU may choose not to receive increased compensation available under the new regulation and continue to receive reimbursements for costs.
—an FCU may provide credit- and/or savings-related insurance at no additional charge to its members.

The Board believes that each FCU board of directors should determine which method is appropriate for its FCU and the FCU's members.

Compensation to Employees, Officials and Family Members

Very few comments addressed the issue of compensation to officials, employees and their family members. As noted in the proposal, the prohibition on such commissions is a carryover from the present regulation. Several commenters did note that the term "immediate family" should be defined for purposes of this regulation. NCUA has previously defined this term to mean "a spouse, or a child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual" in both its lending and investment regulations. (See 12 CFR 701.21(c)(8) & 703.2(i) and 703.4(e).) The Board believes that this same definition should apply to Part 721 and has added the definition in the final rule. Although insurance compensation to employees and officials is restricted, an employee or official who is the licensed insurance agent for the FCU may, as previously indicated, receive compensation on the condition that it is assigned in its entirety to the FCU.

Effective Date

This final rule will become effective August 1, 1985. The effective date is delayed to provide FCU's adequate time to educate themselves on state laws they may have to comply with under the new regulation.

Regulatory Flexibility Act

The NCUA Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions because the rule will increase their management flexibility and reduce their paperwork burdens. A Regulatory Flexibility Analysis is, therefore, not required.

Financial Regulation Simplification Act

Since this final rule reduces burdens and delay would cause unnecessary harm, the NCUA Board finds that full and separate consideration of all the requirements of the Financial Regulation Simplification Act is impracticable. The NCUA Board has, however, considered most of these policies, as set forth in the preamble above.

List of Subjects in 12 CFR Part 721

Credit unions, insurance, Group purchasing.

Dated: April 17, 1985.

Rosemary Brady,

Secretary of the Board.

Authority: 12 U.S.C. 1757(15); 12 U.S.C. 1766(a).

PART 721—[AMENDED]

Accordingly, the NCUA rules and regulations (12 CFR Part 721) are amended as follows:

Section 721.2 is revised to read as follows:

§ 721.2 Reimbursement.

(a) For purposes of paragraph (b) of this section, the following definitions shall apply:

(1) "Dollar amount" shall mean $4 per single payment policy, $8 per combination policy, or $4 per annum for any other type of policy; and

(2) "Cost amount" shall mean the total of the direct and indirect costs to the Federal credit union of any administrative functions performed on behalf of the vendor. The Federal credit union must be able to justify this amount using standard accounting procedures.

(b) A Federal credit union may be reimbursed or compensated by a vendor for activities performed under § 721.1 as follows:

(1) Except as otherwise provided by applicable state insurance law, reimbursement or compensation is not limited 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 certificate account at the credit union;

(2) For insurance sales other than those described in paragraph (b)(1), a Federal credit union may receive an amount not exceeding the greater of the dollar amount or the cost amount;

(3) For group purchasing plans other than insurance, a Federal credit union may receive an amount not exceeding the cost amount.

(c) No official or employee of a Federal credit union or any immediate family member of an official or employee may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under this regulation. For purposes of this section, "immediate family member" means a spouse, or a child, parent, grandchild, grandparent, brother or sister, or spouse of any such individual.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-13; Amdt. 39-5029]

Airworthiness Directives; Teledyne Continental Motors IO-470 and O-470 Series Engines

Correction

In FR Doc. 85-9241, beginning on page 15098 in the issue of Wednesday, April 17, 1985, make the following correction:

On page 15099, first column, in § 39.13, nineteenth line from the bottom of the page, "2138199" should have read "238199".

BILLING CODE 1505-01-M

14 CFR Part 39

[Docket No. 85-NM-31-AD; Amdt. 39-5044]

Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection of the wing front spar upper chord of Boeing Model 707 and 720 airplanes. This action is promoted by a recent report of a 46-inch crack. The chords are subject to cracks, which if undetected will propagate to the point where fail-safe load cannot be supported.

DATES: Effective May 8, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The service bulletin may also be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM-120S; (206) 431-2928. Mailing address: FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Recently one operator reported a 46-inch crack, which was located along the dry bay area between the inboard and outboard nacelles. When the crack extended into the fuel tank areas, fuel leakage resulted which led to discovery of the crack. Cracks of such length may lower the fail-safe load capability below required minimums and left undetected could result in a buckling of the upper front spar and failure to the wing.

Boeing Service Bulletin No. 3240, revised November 13, 1981, addresses cracking problems in the wing spar chords. Cracks in the front upper chord are attributed to a combination of corrosion and fatigue which results from slat actuator loads. The service bulletin recommended inspections at 1000 flight intervals, and provided repair information.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection and repair, if necessary, in accordance with the Boeing service bulletin.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evalution or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 707 and 720 series airplanes certificated in all categories with 15,000 or more landings.

To insure continued structural integrity of the wing front spar upper chord, accomplish the following within 100 landings or 60 days, whichever occurs first, unless previously accomplished within the last 500 landings or 10 months:

A. Perform a close visual inspection of the wing front spar upper chord for cracks in accordance with Boeing Service Bulletin 3240, Revision 1, or later FAA approved revision. Repeat the inspection at intervals not to exceed 1,000 landings or one year, whichever occurs first.

B. If cracks or corrosion areas are found, repair prior to further flight in accordance with the above service bulletin or in a manner approved by the Manager, Seattle Aircraft Certification Office.

C. The temporary crack repairs described in the above service bulletin, Part III, Figure 2, may be performed; however, the crack must be reinspected at intervals not exceeding 300 landings and a permanent repair must be accomplished within 1,000 landings or one year, whichever occurs first after the temporary repair.

D. After each of the above inspections and repairs have been performed, apply BMS-3-23 or equivalent corrosion inhibitor to the affected areas.

E. Areas of wing front spar upper chord replaced or repaired in accordance with the repair kits specified in Boeing Service Bulletin 3240, are exempt from the inspections of paragraph A., above.

F. An alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 8, 1985.

5200.2 REIMBURSEMENT FEES—COST OF SELLING CHECKS

The credit union may collect fees from members in connection with the sale to them of negotiable checks, travelers' checks and money orders. Fee income should be recorded in Account No. 151, "Miscellaneous Operating Income."

A federal credit union is not required to sell such checks. If such checks are sold, the board should decide on the amount of the fee, if any, to be charged.

5200.2.1 SEPARATE BANK ACCOUNT

If a credit union sells its own checks or money orders, a separate bank account, properly identified, should be used for this purpose. A separate General Ledger cash account with an appropriate descriptive title should be used. For this purpose the additional cash, general ledger account should be assigned one of the unused numbers in the series 732 through 736. Sufficient funds should be kept in the bank account to pay all checks or money orders drawn on it. The checks or money orders issued under such an arrangement should be readily distinguishable from the credit union's regular checks.

5200.2.2 CHECKS SOLD

An adequate record or register in chronological order of all checks sold should be maintained. Although no standard form of record or register has been prescribed, it should provide for at least the following: (a) date, (b) member's name or account number, (c) check number, (d) amount of the check, and (e) amount of fee collected for the sale of the check. If voucher checks are used, the duplicate or triplicate copy can be prepared so that it will serve as the register. If a record or register separate from the Journal and Cash Record is used, a daily summary entry, showing the inclusive number of checks issued, should be made in the Journal and Cash Record. The checks issued as shown by the record or register should be reconciled at the end of each month with the bank's records.

5200.2.3 AGENT

The credit union may act as an agent for the sale of checks or money orders for another institution or organization. The credit union should maintain adequate records to: (a) control the supply of checks which are offered for sale, and (b) to permit proper recording of the credit union's income from fees collected, and its liability to remit funds to the institution or organization for whom the credit union is acting as agent. A suggested record for this purpose can be the register described above under "Checks Sold." An additional column should be added to show the liability to the institution or organization for each check sold.

5200.2.4 ESCHEATMENT—ABANDONED MONEY ORDERS AND CHECKS

Where negotiable checks or money orders issued by a federal credit union have been presumed to be abandoned and where the federal credit union is directly liable for payment:

a. The state in which such negotiable checks or money orders were purchased shall be entitled to escheat under its own laws; or

b. If the laws of the state in which such negotiable checks or money orders were purchased do not provide for the escheat, then the state in which the federal credit union has its principal place of business shall be entitled to escheat or take custody of such funds.

5200.3 REIMBURSEMENT FEES—COST OF CASHING CHECKS

Fees collected from members for cashing checks or money orders should also be recorded in Account No. 151, "Miscellaneous Operating Income." Fees may not be charged to a member for the cashing of a check or money order when such check or money order is applied in its entirety for payment of a loan, interest, obligation to the credit union, or purchase of shares. Nor should any fee be charged to the member for the cashing of a check or money order drawn by the credit union on its own bank account and issued to the member in connection with a share withdrawal or disbursement of a loan. The change fund, which is discussed in the description of "Change Fund", (Account No. 739), should be used in cashing checks or money orders.

5200.4 REIMBURSEMENT FEES—COST OF HANDLING INSURANCE

Reimbursement fees may be received from insurance companies when the credit union has undertaken to facilitate the members' voluntary purchase of insurance. Part 721 of the National Credit Union