

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. # AMS-FV-07-0140]

United States Standards for Grades of Table Grapes (European or Vinifera Type)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is withdrawing the document soliciting comments on its proposal to amend the voluntary United States Standards for Grades of Table Grapes (European or Vinifera Type). After reviewing and considering the comments received, the agency has decided not to proceed with this action.

DATES: *Effective Date:* The proposed rule published February 26, 2008 (73 FR 10185), is withdrawn as of May 18, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Carl Newell, Standardization and Training Section, Fresh Products Branch, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406-1016; Telephone: (540) 361-1120; or Fax: (540) 361-1199. The United States Standards for Grades of Table Grapes (European or Vinifera Type) are available by accessing the Fresh Products Branch Web site at: <http://www.ams.usda.gov/freshinspection>.

Background

In November of 2005, AMS received petitions from two trade associations requesting a revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type). These petitions were received from the California Grape and Tree Fruit League on November 9, 2005, and Western Growers on November 25, 2005. These two trade associations represent more than 85 percent of the European or Vinifera type table grape production in

the United States. They requested an additional 10 percent allowance for shattered berries en route or at destination for grapes in consumer containers. The petitioners stated that changes to the standard, specifically limited to shattered berries packed in consumer containers, are warranted because the majority of table grapes are now being sold in consumer containers which allow shattered berries to be fully utilized/sold.

Prior to undertaking detailed work to develop a proposed revision to the standards, AMS published an advanced notice of proposed rulemaking (ANPR) on January 24, 2006, in the **Federal Register** (71 FR 3818) soliciting comments on a proposal to revise the standards. Based on comments received, AMS published a proposed rule on September 22, 2006, in the **Federal Register** (71 FR 55367) proposing to modify the standard by adding a 10 percent allowance for shattered grapes in consumer containers. Due to lack of industry consensus concerning the proposed rule, AMS published in the **Federal Register** (72 FR 35668) a notice to withdraw the proposed rule on June 29, 2007.

The withdrawal stated that AMS would continue to work with interested parties regarding the subject of shattered berries. AMS subsequently met with the representatives from the California Grape and Tree Fruit League, the North American Perishable Agricultural Receivers, and other wholesale produce receivers to gather additional background information in order to consider possible future revisions.

On October 5, 2007, AMS received a second petition from the California Grape and Tree Fruit League requesting a revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type). The petitioner repeated the original request for an additional 10 percent allowance for shattered grapes en route or at destination for grapes in consumer containers. However, AMS did not propose the 10 percent allowance. AMS was concerned that this percentage would weaken the standard and reduce consumer confidence in the grade. In recognizing that the majority of grapes now sold at retail are packaged in consumer containers, AMS proposed a smaller change in the allowance. Therefore, on February 26, 2008, AMS

published a proposed rule in the **Federal Register** (73 FR 10185) proposing a 5 percent allowance for shattered grapes in consumer containers.

AMS received 58 comments from the table grape industry. These comments are available by accessing the AMS, Fresh Products Branch Web site at: <http://www.ams.usda.gov/freshinspection> or <http://www.regulations.gov>.

Thirty-three comments supported the proposal. Three were from regional agricultural trade associations; one comment was from a national table grape association; and 29 were from growers, packers, and shippers. Supporting comments indicated that changes in grading are necessary to recognize improvements made in packaging, marketing, and shipping of grapes. They expressed that the proposed allowance for shatter would strengthen the United States Standards for Grades of Table Grapes (European or Vinifera Type). These comments stated that consumers are buying shattered berries in bags and clamshells resulting in less shrink. They also stated that the key to consumer acceptance of low to medium amounts of shattered berries is the healthy appearance of the berry (a whole and sound berry that is free from other visible defects), not just whether the berry is attached to the stem.

Twenty-five comments opposed the proposal. Two comments were received from national trade associations, one from a Chilean trade association, and 22 comments were received from wholesalers, receivers, and distributors. Opposing comments stated that shattered berries were weaker berries more susceptible to microbiological contamination and are more prone to develop other defects than berries that are still attached to the stem. They also commented that in their experience, customers seek out the bags with the most berries still attached to the stem. These comments conveyed that containers with higher amounts of shattered grapes sit in produce cases longer increasing the amount of shrink compared to containers with less shattered grapes present. Commenters opposed to the proposed changes were also concerned that the proposed allowance would weaken the United States Standards for Grades of Table Grapes (European or Vinifera Type).

AMS has reviewed all comments and we note that improvements in packaging for table grapes have occurred. Nonetheless, there were conflicting comments received that specifically raised questions regarding: (1) Marketability and subsequent shrink, due to changes in packaging; and (2) the effect this proposed rule would have on individual businesses. Further, we note that there is a lack of independent data available to clarify these issues. In such circumstances, there continues to be no clear consensus among industry segments to support a proposed rule. Accordingly AMS will not proceed with this action. However, AMS will continue to work with the industry to revise the current U.S. Grade standards to better reflect the current marketing of this and other agricultural products.

Authority: 7 U.S.C. 1621–1627.

Dated: May 12, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–11491 Filed 5–15–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: This supplemental NPRM revises an earlier proposed airworthiness directive (AD), applicable to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers. That proposed AD would have required initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves. That proposed AD resulted from mandatory continuing airworthiness information (MCAI) issued by the European Aviation Safety

Agency (EASA) to identify and correct an unsafe condition on certain Dowty propellers. This supplemental NPRM revises the proposed AD to correct the listing of propeller models affected. This supplemental NPRM results from the discovery that we need to correct one of the propeller model numbers affected, and to remove an erroneous propeller model number. We are proposing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane. The MCAI describes the unsafe condition as:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

We are proposing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2009.

ADDRESSES: You may send comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493–2251.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail:

terrance.fahr@faa.gov; telephone (781) 238–7155; fax (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2008–0033, dated February 19, 2008, to correct an unsafe condition for the specified products. The EASA AD states:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Dowty Propellers has issued Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.