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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 00-042-2]

Importation of Artificially Dwarfed Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for importing plants and plant products by requiring artificially dwarfed plants that are imported into the United States to have been grown under certain conditions in greenhouses or screenhouses within nurseries registered with the government of the country where the plants were grown. This action is necessary to protect against the introduction of longhorned beetles into the United States.

EFFECTIVE DATE: September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of plant pests. The regulations contained in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37-14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

Under § 319.37-2(b)(2) of the regulations, the importation from all foreign places except Canada of any naturally dwarf or miniature form of tree or shrub exceeding 305 mm (approximately 12 inches) in length from the soil line is prohibited, unless the plants are imported by the U.S. Department of Agriculture for experimental or scientific purposes in accordance with § 319.37-2(c). Because the regulations do not explicitly prohibit the importation of naturally dwarf plants under 305 mm in length or artificially dwarfed plants, and because the regulations do not contain restrictions particular to their importation, such plants may be imported into the United States if they are accompanied by a phytosanitary certificate of inspection. Such plants are also subject to inspection and, if necessary, treatment for plant pests, at the port of first arrival in the United States, and under § 319.37-8, such plants must be free of sand, soil, earth, or other growing media.

On April 20, 2001, we published in the **Federal Register** (66 FR 20208-20211, Docket No. 00-042-1) a proposal to amend the regulations by requiring artificially dwarfed plants that are imported into the United States to have been grown under certain conditions in nurseries registered with the government of the country where the plants were grown. We proposed this action in order to protect against the introduction of longhorned beetles and other plant pests into the United States.

We solicited comments concerning our proposal for 60 days ending June 19, 2001. We received four comments by that date. They were from State agricultural officials, agricultural trade organizations, and an environmental advocacy group. The comments are discussed below.

Comment: The relationship between the proposed rule and another proposed rule involving penjing from China is not clear.

Response: This rule is worldwide in scope and is intended to increase and clarify the Animal and Plant Health Inspection Service's (APHIS's) requirements regarding the importation of all artificially dwarfed plants eligible for importation under current regulations. Current regulations allow the importation of artificially dwarfed plants only if they are bare-rooted and

accompanied by a phytosanitary certificate. The requirements contained in this rule are intended to clarify what type of plant may be considered an artificially dwarfed plant for the purposes of the regulations, so as to eliminate the possibility that field-grown plants could be imported into the United States under the requirements for artificially dwarfed plants.

In our proposed rule regarding the importation of penjing from China (See 65 FR 56803-56806, Docket No. 98-103-1), we proposed to allow, under certain conditions, the importation in growing media of five genera of artificially dwarfed plants from China.

Comment: Several experts have questioned whether annual inspection by an exporting country's plant protection agency is sufficient to ensure greenhouses are pest-free. Inspections should take place once every 6 months rather than once every 12 months.

Response: We proposed to require that artificially dwarfed plants be grown in a registered nursery for at least 2 years, and that the nursery where they were grown be inspected for any evidence of pests and found free of pests of quarantine significance to the United States at least once every 12 months by the plant protection service of the country where the plants were grown. Several comments that we received indicated that the commenters assumed that we had proposed to require that the plants be grown in a greenhouse at the nursery. Rather, we had simply proposed to require that the plants be grown in a nursery. Based on the apparent support among commenters for a requirement that plants be grown in a greenhouse for 2 years, we have added a requirement in this final rule based on the comments we received. We believe that requiring artificially dwarfed plants to be grown in a greenhouse or screenhouse, in conjunction with the other requirements described in the proposed rule, will reduce the risk that imported artificially dwarfed plants could become infested with quarantine pests.

Under this change, in addition to the requirements described in the proposed rule, imported artificially dwarfed plants must be grown in a greenhouse or screenhouse. The greenhouse or screenhouse must have screening with openings of not more than 1.6 mm on all vents and openings, and all

entryways must be equipped with automatic closing doors. These screening and entryway requirements will help ensure that pests of concern are excluded from the structures in which the artificially dwarfed plants are grown. The phytosanitary certificate accompanying imported artificially dwarfed plants must state that the above requirements have been met. We are making this change to provide added assurance that longhorned beetles are not able to access and infest foreign-grown artificially dwarfed plants that are intended for export to the United States.

Regarding the timing of inspections, we believe that annual inspections are sufficient to ensure that nurseries are practicing appropriate phytosanitary measures, and to ensure that nurseries meet the conditions described in this document and the proposed rule.

Comment: Why did the proposed rule not address naturally dwarf or miniature forms of tree or shrubs smaller than 305 mm? The pest risk posed by naturally dwarf plants does not differ greatly from risk posed by artificially dwarfed plants, and the scientific rationale for different regulatory treatment of each is not clear.

Response: The current regulations in § 319.37(b)(2) prohibit the importation of naturally dwarf plants that are larger than 305 mm. Naturally dwarf or miniature forms of tree or shrubs smaller than 305 mm are subject to inspection as a condition of entry into the United States, and must be bare-rooted and accompanied by a phytosanitary certificate.

The proposed rule was intended to address the apparently increased pest risk posed by imported plants labeled or manifested as artificially dwarfed plants. As stated in our proposed rule, we believe that many plants that have recently been imported into the United States that have been labeled or manifested as artificially dwarfed plants may in fact be field-collected plants that are produced quickly in their country of origin for mass export. These plants include species that, historically, have not been imported as artificially dwarfed plants and that may not be given the same meticulous care and safeguards as traditional artificially dwarfed plants such as bonsai and penjing.

Essentially, the proposed rule was intended to clarify what type of plant could be considered an artificially dwarfed plant for the purposes of the regulations, so as to eliminate the possibility that field-grown plants could be imported into the United States under the requirements for artificially dwarfed plants. We have not proposed

to amend the requirements for naturally dwarf plants because there is no evidence to suggest that the pest risk associated with imported naturally dwarf plants has increased in a manner corresponding to the risk associated with plants following the artificially dwarfed plant pathway. Because naturally dwarf plants must be 305 mm or less in height to be eligible for importation, and since such plants do not have large woody stems into which longhorned beetles could bore, we do not believe such plants serve as suitable hosts for longhorned beetles.

Comment: What height limitation is applied to imported artificially dwarfed plants? It appears that a 305 mm height limitation currently applies to artificially dwarfed plants, and that the proposal would not change that limitation. If under existing regulations there is no height restriction for artificially dwarfed plants, a reasonable height restriction should be considered to facilitate more effective inspection.

Response: The 305 mm height restriction contained in § 319.37(b)(2) applies only to naturally dwarf plants. At present, no height restrictions apply to imported artificially dwarfed plants. Further, the regulations in § 319.37(b)(6) prohibit the importation of any plants (other than stem cuttings, cactus cuttings, artificially dwarfed plants, palms, and plants whose growth habits simulate palms) that are larger than 460 mm.

We agree that there is a need to consider adopting a height restriction to facilitate the effective inspection of artificially dwarfed plants. We intend to address this issue in a subsequent rulemaking.

Comment: Is there any track record for pest interceptions associated with naturally dwarf plants?

Response: APHIS's pest interception records do not distinguish between naturally dwarf and artificially dwarfed plants. However, inspection personnel have not reported detections of the pests addressed by this rule (longhorned beetles, specifically) on naturally dwarf plants. Further, as stated earlier in this document, we do not believe naturally dwarf plants serve as suitable hosts for longhorned beetles.

Comment: How were the mitigation measures selected? There is no discussion of pests under consideration, except to identify them as longhorned beetles and other dangerous plant pests. Will these measures provide adequate assurance that risks are being reduced to an acceptable level? Can an acceptable level of risk be more clearly defined and communicated?

Response: As stated earlier in this document, the proposed mitigation measures were intended to clarify what type of plant could be considered an artificially dwarfed plant for the purposes of the regulations, so as to eliminate the possibility that field-grown plants could be imported into the United States under the requirements for artificially dwarfed plants. We believe these measures are necessary because field-grown plants that are labeled or manifested as artificially dwarfed plants appear to present a higher risk of introducing longhorned beetles into the United States than do traditionally grown artificially dwarfed plants. We believe that the requirements contained in the rule will significantly reduce the risk that imported artificially dwarfed plants could be infested with these longhorned beetles.

Comment: The list of pests considered in the pest risk assessment is not complete and the mitigation measures in the proposed rule are not adequate to exclude pests of economic significance.

Response: Again, the proposed rule was intended to address the risk posed by field-grown plants that are labeled or manifested as artificially dwarfed plants and that have served as pathways for the introduction of longhorned beetles into the United States. We are confident that the mitigation measures contained in this rule will accomplish that goal. We are not aware of any pests of quarantine significance associated with genuine artificially dwarfed plants that pose risks to U.S. agriculture that are not mitigated by existing phytosanitary measures (*i.e.*, that the plants be accompanied by a phytosanitary certificate, that they are bare-rooted upon importation, and that they are subject to inspection upon arrival in the United States).

Comment: Due to the pest risk associated with artificially dwarfed plants, APHIS should not allow imports of field-grown artificially dwarfed plants even when bare-rooted. Furthermore, APHIS should not allow greenhouse-grown plants to be rooted in the field.

Response: As stated in our proposed rule, in the last 3 years, APHIS has detected increasing numbers of longhorned beetles associated with imported plants following the artificially dwarfed plant pathway. We would like to clarify that the requirements contained in this final rule for importing artificially dwarfed plants are designed to address the risk posed by these longhorned beetles, which are wood-boring pests that are difficult to detect by visual inspection. We believe that the proposed regulations address

the increased pest risk posed by longhorned beetles and other wood-boring pests. Further, we are confident that our inspectors are capable of identifying other pests on bare-rooted artificially dwarfed plants by visual inspection at the port of entry.

Also, as stated above, we proposed to require artificially dwarfed plants to be grown in a nursery, but did not specify that the artificially plants be grown in a greenhouse at the nursery. However, in this document, based on public comments, we are requiring imported artificially dwarfed plants to be accompanied by a phytosanitary certificate stating, among other requirements, that the plants have been grown for at least 2 years in a greenhouse or screenhouse in approved nurseries that are inspected annually. We have not prohibited artificially dwarfed plants from being grown in fields prior to their 2-year greenhouse/screenhouse growth period because we believe that the requirements of this rule are sufficient to ensure that plants eligible for importation into the United States are protected against infestation by longhorned beetles.

Comment: The proposed rule is flawed because it allows propagative material that may be infested with pests to be placed in sterile media in a pest-free greenhouse setting. At the instant a field-grown plant is placed in sterile growing media, the media is no longer sterile, and such a requirement does not mitigate the risk posed by soil-borne pests and pathogens. It is absolutely essential to start with clean propagative material. Nematode testing should be included as part of the import requirements for artificially dwarfed plants due to the risk for root nematodes associated with field-grown plants that are moved into greenhouses under the regulations. All field-grown plants should be washed completely free of soil using clean, pressurized water from a known nematode-free source prior to potting in sterile media and containers.

Response: As stated earlier in this document, this rule was intended to address the risk posed by wood-boring pests such as longhorned beetles. If, in the future, we determine that imported artificially dwarfed plants pose a significant risk of introducing soil-borne pests and pathogens into the United States, we will address the issue at that time. At present, we are confident that the requirement that imported artificially dwarfed plants be bare-rooted, coupled with the inspection procedures we use, will enable us to detect nematodes if they are indeed present on imported artificially dwarfed plants.

Comment: APHIS should require that imported plants be defoliated as well as bare-rooted. Such a provision would ensure that additional pests do not hitchhike on the plants.

Response: Pests are capable of hitchhiking on a wide variety of imported plants. To address the risk posed by hitchhiking pests, imported plants are subject to inspection at the port of entry. We are confident that our inspection procedures are adequate to detect such pests on imported commodities, and do not believe that defoliating plants would substantively improve inspections of imported plants.

Comment: Given that the regulations contain an exception for plants from Canada, what safeguards are in place, or could be put in place, to address the risk of transshipment through Canada of plants that would no longer be directly enterable into the United States if the proposed rule is adopted?

Response: Propagative material, whether grown in, or transhipped through Canada must either (1) be accompanied by a phytosanitary certificate of inspection, or (2) in the case of greenhouse-grown plants that meet the applicable conditions of § 319.37-4(c), be accompanied by a certificate of inspection in lieu of a phytosanitary certificate. Both types of certificate include a declaration of the plants' origin.

Comment: Does APHIS have sufficient resources to ensure that imported plants are grown under the conditions specified in the proposed rule? The proposed rule puts an extreme reliance on the infrastructure of foreign regulatory agencies. Many countries simply do not have the infrastructure or resources to provide the kind of regulatory oversight that was envisioned by the proposed rule.

Response: This rule requires the plant protection organization of the exporting country to certify on the phytosanitary certificate accompanying plants imported into the United States that imported artificially dwarfed plants have been grown and inspected according to APHIS requirements. When plants are presented for importation into the United States, we verify that the phytosanitary certificate accompanying the plants contains all the required declarations.

The certification requirements contained in the regulations are in addition to our port of entry inspections, not in lieu of them. Because the United States is a signatory party of international agreements such as the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures and the

International Plant Protection Convention, we are obligated to consider foreign certifications as equivalent to our own unless there are documented reasons to consider them otherwise. Under these circumstances, APHIS believes that the proposed requirements will provide adequate protection against the introduction of plant pests into the United States.

One commenter requested additional plant quarantine action to control the spread of *Phytophthora ramorum*, the fungus that causes what has commonly been referred to as Sudden Oak Death. This matter is outside the scope of this rulemaking action, but we have restricted the interstate movement of Sudden Oak Death host articles in an interim rule published in the **Federal Register** on February 14, 2002 (67 FR 6827-6837, Docket No. 01-054-1), and intend to address the importation of Sudden Oak Death host articles from foreign countries in an upcoming rulemaking.

Finally, we have made several nonsubstantive editorial changes for the sake of clarity.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In this document, we are amending the regulations for importing plants and plant products by requiring artificially dwarfed plants that are imported into the United States to have been grown under certain conditions in greenhouses or screenhouses within nurseries registered with the government of the country where the plants were grown. This action is necessary to protect against the introduction of longhorned beetles into the United States.

The requirements of this rule are intended to prevent the introduction of longhorned beetles into the United States. A recent APHIS study on the importation of solid wood packing material from China has shown that production losses resulting from a widespread Asian longhorned beetle infestation in the United States could total in excess of \$27.4 billion.

The art of miniature (or artificially dwarfed) plant gardening is a recent phenomenon in the United States. Because it is a highly time consuming

and very labor intensive activity, it is practiced by a relatively small number of U.S. nurseries and households. The size of these artificially dwarfed plants range from 4 inches to 60 inches in height, with prices ranging from \$10 to more than \$10,000. The median price of an artificially dwarfed plant is close to \$100, and its value increases with age, regardless of size.

Plants that have been imported from Asia represent approximately 80 percent of the value of the entire artificially dwarfed plant market. Such imports come predominantly from Japan, the People's Republic of China, and the Republic of Korea. The remaining 20 percent of value corresponds to plants that have been domestically produced. With respect to volume, 20 percent of the artificially dwarfed plants available in the U.S. market are imported from Asia, and the rest are domestically produced. Domestically produced artificially dwarfed plants are the smallest, simplest, and most inexpensive ones. Plants produced in and imported from Asian countries are the largest, most elaborate, and most expensive.

In 1997, the U.S. National Arboretum in Washington, DC, surveyed U.S. nurseries that sell artificially dwarfed plants, as well as other businesses related to the growing of artificially dwarfed plants. A summary of the results of the survey was published in the American Nurseryman Magazine in April 1999. According to that survey, in 1997, there were at least 366 artificially dwarfed plant-related businesses in the United States. Based on that survey, artificially dwarfed plant businesses can be divided into two categories: Full-service nurseries and specialty companies focusing on one product.

Full-service nurseries may carry a wide range of artificially dwarfed plants in varying sizes, including some that they have developed themselves and others they have purchased or have imported from Asia. Many of these businesses also sell pots for these plants, as well as related tools and books. On the other hand, specialty companies may produce one product, such as plants, pots, or tools, or may be limited to teaching or publishing.

The survey identified 97 full service artificially dwarfed plant nurseries (see table below). These entities ranged from relatively small family owned and operated enterprises to a few large companies.

Type of company	Number of companies
Full service artificially dwarfed plant nurseries	97
Specialty artificially dwarfed plant related companies:	
Plants (including seeds)	82
Tools, supplies, stands	81
Containers and pots	46
Magazines, books, and newsletters	32
Consultants and teachers	28
Total	366

The 1997 survey found that artificially dwarfed plant-related businesses were fairly well distributed throughout the United States. However, the largest concentrations were in the Southeast (107) and the Southwest (102), including California. The Northeast had 84 artificially dwarfed plant-related businesses. The Midwest had 37 related businesses, and the Northwest had 26.

Effect on Small Entities

According to Small Business Administration (SBA) guidelines, a small business involved in the sale or importation of artificially dwarfed plants or related products is one having less than \$6 million of annual receipts from sales (see NAICS codes 444220, "Nursery and Garden Centers," and 453110, "Florists").

There are between 20 to 50 importers of artificially dwarfed plants in the United States, with the number varying each year. However, on average, this number is closer to 20. All of them can be considered small entities according to the SBA definition. We do not expect that this final rule will significantly affect the price of imported artificially dwarfed plants or have a significant effect on importers of artificially dwarfed plants.

Most of the businesses engaged in the production and distribution of artificially dwarfed plants and related materials are family owned and operated. Approximately 99 percent of these firms are considered small according to SBA criteria. There is no reason to believe that these entities would be significantly affected by implementation of this rule because the price of imported artificially dwarfed plants is not expected to change significantly.

The requirements that imported artificially dwarfed plants be grown in greenhouses or screenhouses in registered nurseries—and not collected from open fields—could affect the number of artificially dwarfed plants imported during the short term. Plants

imported from Asia are predominantly higher valued and nursery-grown, and comprise only 20 percent of U.S. sales by quantity, but 80 percent of sales by value. This rule will not likely have a significant effect on the number of higher-valued plants imported from Asia. However, since artificially dwarfed plants that are not grown in accordance with the conditions in this rule are prohibited importation into the United States, it is possible that some U.S. producers could benefit from decreased competition. Nevertheless, the effect of this final rule on those nurseries is expected to be insignificant, given the small number of affected imports.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0176.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.37–2 [Amended]

2. Section 319.37–2 is amended as follows:

a. In paragraph (a), in the text before the table, by removing the words

“§ 319.37–2(c) of this subpart” and adding in their place the words “paragraph (c) of this section”.

b. In paragraph (b), introductory text, by removing the words “§ 319.37–2(c) of this subpart” and adding in their place the words “paragraph (c) of this section”.

c. In paragraph (b)(1), introductory text, by removing the words “trees or shrubs” and adding in their place the words “plants meeting the conditions in § 319.37–5(q)”.

d. In paragraph (b)(6)(i), by removing the words “such as bonsai” and adding in their place the words “meeting the conditions in § 319.37–5(q)”.

e. In paragraph (b)(7), introductory text, by removing the words “tree or shrub” the second time they appear and adding in their place the words “plant meeting the conditions in § 319.37–5(q)”.

§ 319.37–5 [Amended]

3. Section 319.37–5 is amended as follows:

a. By adding a new paragraph (q) to read as follows.

b. At the end of the section, by revising the OMB control number citation to read as follows.

§ 319.37–5 Special foreign inspection and certification requirements.

* * * * *

(q) Any artificially dwarfed plant imported into the United States must have been grown and handled in accordance with the requirements of this paragraph and must be accompanied by a phytosanitary certificate of inspection that was issued by the government of the country where the plants were grown.

(1) Any growing media, including soil, must be removed from the artificially dwarfed plants prior to shipment to the United States unless the plants are to be imported in accordance with § 319.37–8.

(2) The artificially dwarfed plants must be grown in accordance with the following requirements and the phytosanitary certificate required by this paragraph must contain declarations that those requirements have been met:

(i) The artificially dwarfed plants must be grown for at least 2 years in a greenhouse or screenhouse in a nursery registered with the government of the country where the plants were grown;

(ii) The greenhouse or screenhouse in which the artificially dwarfed plants are grown must have screening with openings of not more than 1.6 mm on all vents and openings, and all entryways must be equipped with automatic closing doors;

(iii) The artificially dwarfed plants must be grown in pots containing only sterile growing media during the 2-year period when they are grown in a greenhouse or screenhouse in a registered nursery;

(iv) The artificially dwarfed plants must be grown on benches at least 50 cm above the ground during the 2-year period when they are grown in a greenhouse or screenhouse in a registered nursery; and

(v) The plants and the greenhouse or screenhouse and nursery where they are grown must be inspected for any evidence of pests and found free of pests of quarantine significance to the United States at least once every 12 months by the plant protection service of the country where the plants are grown.

(Approved by the Office of Management and Budget under control number 0579–0176)

Done in Washington, DC this 14th day of August 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–20940 Filed 8–16–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–318–AD; Amendment 39–12855; AD 2002–16–16]

RIN 2120-AA64

Airworthiness Directives; Dornier Model 328–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 and –300 series airplanes, that requires inspecting the identification plate on the fire extinguisher bottle of the auxiliary power unit (APU), and replacing the existing actuating cartridge of the fire extinguisher bottle with a correct actuating cartridge, if necessary. This AD also requires removing the fire extinguisher bottle equipped with the actuating cartridge from the APU, and reinstalling the fire extinguisher bottle equipped with the correct actuating cartridge into the APU. The actions specified by this AD are intended to prevent failure of the actuating cartridge on the APU fire extinguisher, which could result in the

inability to extinguish an APU fire in-flight, and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 23, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 23, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, PO Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez; Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 and –300 series airplanes was published in the **Federal Register** on April 18, 2002 (67 FR 19132). That action proposed to require inspecting the identification plate on the fire extinguisher bottle in the auxiliary power unit (APU) to verify if the correct actuating cartridge has been installed, and replacing the existing actuating cartridge of the fire extinguisher bottle with the correct actuating cartridge, if necessary. That action also proposed to require removing the fire extinguisher bottle equipped with the actuating cartridge from the APU, and reinstalling the fire extinguisher bottle equipped with the correct actuating cartridge into the APU.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal.

Explanation of Change to Final Rule

Since the language in Note 3 of the proposed AD is regulatory in nature, that note has been redesignated as paragraph (b) of this final rule. Additionally, the new paragraph clarifies that the referenced service