

# Proposed Rules

Federal Register

Vol. 73, No. 37

Monday, February 25, 2008

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 930

[Docket No. AMS-FV-07-0137;  
FV08-930-1]

#### Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Continuance Referendum

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Referendum order.

**SUMMARY:** This document directs that a continuance referendum be conducted among eligible growers and processors of tart cherries in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin to determine whether they favor continuance of the marketing order regulating the handling of tart cherries grown in the production area.

**DATES:** The referendum will be conducted from March 17 through March 31, 2008. To vote in this referendum, growers and processors must have been engaged in producing or processing tart cherries within the production area during the period July 1, 2006, through June 30, 2007.

**ADDRESSES:** Copies of the marketing order may be obtained from USDA, Washington DC Marketing Field Office, 4700 River Road, Unit 155, Riverdale, Maryland 20737, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237.

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, MD 20737; telephone: (301) 734-5243, Fax: (301) 734-5275, or E-mail:

*Patricia.Petrella@usda.gov* or  
*Kenneth.Johnson@usda.gov*.

**SUPPLEMENTARY INFORMATION:** Pursuant to Marketing Order No. 930 (7 CFR part 930), hereinafter referred to as the "order," and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act," it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by growers and processors. The referendum shall be conducted during the period March 17 through March 31, 2008, among eligible tart cherry growers and processors in the production area. Only growers and processors that were engaged in the production or processing of tart cherries in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin during the period of July 1, 2006, through June 30, 2007, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers and processors favor continuation of marketing order programs. USDA would consider termination of the order if continuance is favored by fewer than 50 percent of the growers and processors who vote in the referendum, and growers and processors of less than 50 percent of the volume of tart cherries represented in the referendum favor continuance.

In evaluating the merits of continuance versus termination, USDA will consider the results of the continuance referendum and other relevant information concerning the operation of the order. USDA will evaluate the order's relative benefits and disadvantages to growers, processors, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials used in the referendum herein ordered are currently approved by the Office of Management and Budget (OMB) under OMB No. 0581-0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin. It has been estimated that it will take an average of 20 minutes for each of the

approximately 40 processors and 900 growers of tart cherries in the production area to cast a ballot. Participation is voluntary. Ballots postmarked after March 31, 2008, will be marked invalid and not included in the vote tabulation.

Kenneth G. Johnson, Patricia A. Petrella, and Dawana Clark of the Washington, DC, Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct such referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 *et seq.*).

Ballots will be mailed to all growers and processors of record and may also be obtained from the referendum agents and from their appointees.

#### List of Subjects in 7 CFR Part 930

Tart Cherries, Marketing agreements, Reporting and recordkeeping requirements.

**Authority:** 7 U.S.C. 601-674.

Dated: February 19, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8-3494 Filed 2-22-08; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-0197; Directorate Identifier 2008-CE-005-AD]

**RIN 2120-AA64**

#### Airworthiness Directives; Dornier Luftfahrt GmbH Models 228-100, 228-101, 228-200, 228-201, 228-202, and 228-212 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the

products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The manufacturer reported findings of missing primer on the internal of the elevator and rudder of aircraft S/N 8200. The aircraft S/N 8200 was with RUAG for maintenance purposes. Investigation performed by RUAG showed that the paint removal procedure for the rudder and elevator was changed from a paint stripping with brush and scraper to a procedure where the parts were submerged in a tank filled with hot liquid stripper. The stripper is called TURCO 5669 from Henkel Surface Technologies. The stripping process is described in the Technical Process Bulletin No. 238799 dated 09/01/1999. This paint stripping process change was not communicated to and not approved by the TC-Holder.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by March 26, 2008.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility 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 Office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4146; fax: (816) 329-4090.

#### 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-2008-0197; Directorate Identifier 2008-CE-005-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 because of 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 we receive about this proposed AD.

##### Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, has issued German AD D-2007-350, dated December 19, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The manufacturer reported findings of missing primer on the internal of the elevator and rudder of aircraft S/N 8200. The aircraft S/N 8200 was with RUAG for maintenance purposes. Investigation performed by RUAG showed that the paint removal procedure for the rudder and elevator was changed from a paint stripping with brush and scraper to a procedure where the parts were submerged in a tank filled with hot liquid stripper. The stripper is called TURCO 5669 from Henkel Surface Technologies. The stripping process is described in the Technical Process Bulletin No. 238799 dated 09/01/1999. This paint stripping process change was not communicated to and not approved by the TC-Holder.

The MCAI requires you to do a visual inspection of the inner structure of the rudder and elevator for signs of corrosion, debonded primer (yellow-green), and any other deviation of surface protection; report corrosion beyond the acceptable level or areas with debonded primer to the manufacturer; and, if necessary, repair the affected parts following the applicable FAA-approved manufacturer repair instruction. You may obtain further information by examining the MCAI in the AD docket.

##### Relevant Service Information

RUAG Aerospace Defence Technology has issued Dornier 228 Service Bulletin No. SB-228-270, dated October 30,

2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

##### FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

##### Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

##### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 8 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$1,920, or \$240 per product.

We have no way of determining the number of products that may need any necessary follow-on actions.

##### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Dornier Luftfahrt GmbH:** Docket No. FAA–2008–0197; Directorate Identifier 2008–CE–005–AD.

### Comments Due Date

(a) We must receive comments by March 26, 2008.

### Affected ADs

(b) None.

### Applicability

(c) This AD applies to Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, serial numbers 8009, 8065, 8112, 8179, 8185, 8191, 8241, and 8244, certificated in any category.

### Subject

(d) Air Transport Association of America (ATA) Code 51: Structures.

### Reason

(e) The mandatory continuing airworthiness information (MCAI) states: “The manufacturer reported findings of missing primer on the internal of the elevator and rudder of aircraft S/N 8200. The aircraft S/N 8200 was with RUAG for maintenance purposes. Investigation performed by RUAG showed that the paint removal procedure for the rudder and elevator was changed from a paint stripping with brush and scraper to a procedure where the parts were submerged in a tank filled with hot liquid stripper. The stripper is called TURCO 5669 from Henkel Surface Technologies. The stripping process is described in the Technical Process Bulletin No. 238799 dated 09/01/1999. This paint stripping process change was not communicated to and not approved by the TC-Holder.”

The MCAI requires you to do a visual inspection of the inner structure on rudder and elevator for signs of corrosion, de-bonded primer (yellow-green), and any other deviation of surface protection; report corrosion beyond the acceptable level or areas with de-bonded primer to the manufacturer; and, if necessary, repair the affected parts following the applicable FAA-approved manufacturer repair instruction.

### Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within 2 months after the effective date of this AD, do a detailed visual inspection on the inner structure of the rudder and elevator for signs of corrosion, de-bonded primer (yellow-green), and any other deviation of surface protection following RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007.

(2) If you find corrosion or areas with debonded primer as a result of the inspection required by paragraph (f)(1) of this AD, before further flight, do the following:

(i) Report the inspection results to RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Federal Republic of Germany, telephone: +49 (0)8153–30–2280; fax: +49 (0) 8153–30–3030 and request FAA-approved repair instructions following RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007.

(ii) Repair corrosion following FAA-approved repair instructions obtained from RUAG Aerospace Services GmbH.

### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: The MCAI includes provisions for reporting corrosion “beyond the acceptable level.” However, the service information does not include a definition of “acceptable level.” Therefore, to ensure the AD is clear for U.S. operators and is enforceable, this AD does not include the qualifier “beyond the acceptable level.”

### Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

### Related Information

(h) Refer to MCAI German AD D–2007–350, dated December 19, 2007; and RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB–228–270, dated October 30, 2007, for related information.

Issued in Kansas City, Missouri, on February 13, 2008.

### David R. Showers,

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E8–3407 Filed 2–22–08; 8:45 am]

**BILLING CODE 4910–13–P**