

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 959

[Docket No. FV03-959-2 IFR]

#### Onions Grown in South Texas; Revision of Rules and Regulations

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule eliminates all container requirements from the handling regulations prescribed under the South Texas onion marketing order (order) and makes several conforming and formatting changes. The order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). This rule provides the industry expanded flexibility to use any and all types and sizes of containers, or to ship onions in bulk shipments. This change will help handlers compete more effectively in the marketplace, better meet buyers' needs, and improve producer returns.

**EFFECTIVE DATE:** March 12, 2003; comments received by May 12, 2003, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket

Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing

on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule eliminates all container requirements on onion shipments from the handling regulations prescribed under the South Texas onion order and makes several conforming and formatting changes. Removing all container requirements will provide the industry expanded flexibility to use any and all types of containers preferred by consumers, buyers, and all retailers, or to ship onions in bulk shipments, which will help handlers compete more effectively in the marketplace, better meet buyers' needs, and improve producer returns. All shipments will continue to be required to meet grade, size, and inspection requirements. In addition, this rule will also: (1) Remove outdated language from § 959.104; (2) remove all references to containers and applicable language from the order's rules and regulations; (3) remove an incorrectly referenced paragraph in current § 959.322(d) *Inspection* and replace it with the correct reference; and (4) correct the name of the Texas-Federal Inspection Service office. The Committee unanimously recommended these changes at its October 8, 2002, meeting and clarified the recommendation via a mail vote on October 31, 2002. After the October 8 meeting, the Chairman appointed a subcommittee to review the Committee's recommendations. The subcommittee met on November 5, 2002, and further discussed the reasons why the changes should be made.

Section 959.52(b)(4) of the onion order provides authority to regulate size, capacity, weight, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, preparation for market, shipment, or other handling of onions. Sections 959.52(c) allows for the modification, suspension, or termination of such regulations when warranted.

Section 959.322(c) of the order's rules and regulations outlines container requirements for onions. Currently, § 959.322(c)(1) through (7) of the

regulations authorizes ten containers (25-pound, 50-pound, 2-pound, 3-pound, 5-pound, and 10-pound bags; 20-pound, 25-pound, 40-pound, and 50-pound cartons) for use by onion handlers. Section 959.322(f)(2) exempts gift packages of onions not exceeding 25 pounds per package from the container requirements of § 959.322(c) if the onions have not previously been handled. Also, § 959.322(f)(4) authorizes the Committee to approve other types of containers for experimental or testing purposes.

In recent years, there has been a proliferation in package requirements from buyers intent on providing either unique packaging for their stores or special carton sizes for their racking or handling equipment. American retailers desiring to emulate European marketing concepts in display developments (and supporting handling systems) in the U.S. and Canadian marketplace have significantly influenced this process. The evolution of the club and discount stores, design alterations tailored to protecting the commodity from damage during shipment and/or store presentation, and the development of new packaging materials, for example, returnable plastic containers (RPCs) have also greatly influenced the marketplace. The supply side, for reasons of efficiency, has resisted this growth when possible. However, buyer influence is such that no shipper can or will deny buyers new cartons, knowing that other shippers will readily adopt them. The shippers are all impacted by the surge in packaging demands. Many retailers have asked handlers to pack onions in specific RPCs, master containers, and containers other than the currently approved permanent containers. Container dimensions can vary slightly depending on the manufacturers. During previous seasons, handlers applied for and obtained Committee approval to use other containers on an experimental basis. Safeguarding the use of such experimental containers is an additional burden for the Committee.

Because this trend seems certain to continue in the future, the Committee concluded that the best and most economical resolution of the issue concerning the number of containers would be to simply eliminate the container requirements, thereby permitting shippers to respond to buyer requests as they see fit.

The trend toward even more unique and specialized packaging generally is governed by the desire of the retail community to receive produce in "display-ready" packaging consistent with the retailer's image and marketing

plan for each type and size of store. At the same time, the packaging must meet the buyer's expectations for structural integrity and consistency with that buyer's handling practices. Although the increased flexibility does complicate the marketplace, and may result in inefficiencies, it is what retailers think consumers want, and therefore, is prerequisite to selling onions. Maximum efficiency would result from the adoption of a single uniform footprint, but an effort over the past two years to win acceptance of such a footprint has been virtually abandoned because it is contrary to trends in buyer requirements. Furthermore, foodservice buyers also have specialized container requirements often different from retailer requirements. In the end, however, the confusion is held to a minimum by the simple fact that onions normally are sold by weight and grade, which is consistent regardless of packaging.

Eliminating all container requirements in the handling regulations will enable the industry to ship onions in any and all containers preferred by consumers, buyers, and all retailers, which would benefit producers, handlers, buyers, and consumers to Texas onions enabling the industry to compete more effectively in the marketplace. This action will help the industry in providing consumers with high quality onions, promoting buyer satisfaction, and improving producer returns. This action will not impact the onion import requirements.

Removing container requirements requires that all references to containers and applicable language also be removed from the order's rules and regulations, including references to onions for peeling, chopping, and slicing. Reference to these types of fresh processing methods will only be made in the introductory text of § 959.322 in order to avoid confusion with other types of processing, which re exempt from grade, size, and inspection requirements. In addition, several conforming and formatting changes are being made to clarify or remove some outdated language. Specifically, in § 959.104 *Fiscal period* the first sentence and first part of the second sentence needs to be removed. In § 959.322(d)(1), the reference to (f)(3)(ii) needs to be removed because no such section exists, and should be replaced with the correct reference to shipments for experimental purposes. The incorrect section was inadvertently placed in the regulation. Also, in paragraph (d)(1) the name of the inspection office should be corrected to reflect the correct name of the local

inspection office and should include the Inspection Service's name referred to in the order. In addition, paragraphs (f)(2), (f)(3), and (f)(5) will be removed because they will no longer be applicable when container requirements are eliminated.

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 90 producers of onions in the production area and approximately 35 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2001–02 marketing year, the industry's 35 handlers shipped onions produced on 16,148 acres with the average and median volume handled being 152, 446 and 136,810 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 35 handlers were estimated to be \$39.9 million, with average and median revenues being \$1.1 million and \$1.0 million, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates

that all of the 35 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the \$5,000,000 annual receipt threshold. All of the 90 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed \$750,000.

This rule invites comments on revisions to the rules and regulations prescribed under the South Texas onion order. This rule eliminates container requirements on onion shipments in § 959.322 of the order's handling regulations, and makes several conforming and formatting changes. Removing all container requirements will provide the industry expanded flexibility to use any and all types of containers preferred by consumers, buyers, and all retailers, or to ship onions in bulk, which will help handlers compete more effectively in the marketplace, better meet buyers' needs, and improve producer returns. All shipments will continue to be required to meet grade, size, and inspection requirements. This rule change will allow South Texas onion handlers to supply existing markets and will allow the industry to be more competitive in the marketplace. Allowing shipments of onions in all types of containers or in bulk is expected to increase shipments of Texas onions because there will no longer be any container restrictions.

In addition, this rule will also: (1) Remove outdated language from § 959.104; (2) remove all references to containers and applicable language from the order's rules and regulations; (3) remove an incorrectly referenced paragraph in current § 959.322(d) *Inspection* and replace it with the correct reference; and (4) correct the name of the Texas-Federal Inspection Service office. The Committee unanimously recommended these changes at its October 8, 2002, meeting and clarified the recommendation via a mail vote on October 31, 2002. After the October 8 meeting, the Chairman appointed a subcommittee to review the Committee's recommendations. The subcommittee met on November 5, 2002, and further discussed the reasons why the changes should be made.

Section 959.52(b)(4) of the onion order provides authority to regulate size,

capacity, weight, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, preparation for market, shipment, or other handling of onions. Section 959.52(c) allows for the modification, suspension, or termination of such regulations when warranted.

Section 959.322(c) of the order's rules and regulations outlines container requirements for onions. Currently, § 959.322(c)(1) through (7) of the regulations authorizes ten containers (25-pound, 50-pound, 2-pound, 3-pound, 5-pound, and 10-pound bags; 20-pound, 25-pound, 40-pound, and 50-pound cartons) for use by onion handlers.

Section 959.322(f)(2) exempts gift packages of onions not exceeding 25 pounds per package from the container requirements of § 959.322(c) if the onions have not previously been handled. Also, § 959.322(f)(4) authorizes the Committee to approve other types of containers for experimental or testing purposes.

In recent years, there has been a proliferation in package requirements from buyers intent on providing either unique packaging for their stores or special carton sizes for their racking or handling equipment. American retailers desiring to emulate European marketing concepts in display developments (and supporting handling systems) in the U.S. and Canadian marketplace have significantly influenced this process. The evolution of the club and discount stores, design alterations tailored to protecting the commodity from damage during shipment and/or store presentation, and the development of new packaging materials, for example, returnable plastic containers (RPCs) have also greatly influenced the marketplace. The supply side, for reasons of efficiency, has resisted this growth when possible. However, buyer influence is such that no shipper can or will deny buyers new cartons, knowing that other shippers will readily adopt them. The shippers are all impacted by the surge in packaging demands. Many retailers have asked handlers to pack onions in specific RPCs, master containers, and containers other than the currently approved permanent containers. Container dimensions can vary slightly depending upon the manufacturer. During previous seasons, handlers applied for and obtained Committee approval to use these containers on an experimental basis. Safeguarding the use of such experimental containers is an additional burden for the Committee.

Because this trend seems certain to continue in the future, the Committee

concluded that the best and most economical resolution of the issue concerning the number of containers would be to simply eliminate the container requirements, thereby permitting shippers to respond to buyer requests as they see fit.

The trend toward even more unique and specialized packaging generally is governed by the desire of the retail community to receive produce in "display-ready" packaging consistent with the retailer's image and marketing plan for each type and size or store. At the same time, the packaging must meet the buyer's expectations for structural integrity and consistency with that buyer's handling practices. Although the increased flexibility does complicate the marketplace, and quite obviously results in inefficiencies, it is what retailers think consumers want, and, therefore, is prerequisite to selling onions. Maximum efficiency would result from the adoption of a single uniform footprint, but an effort over the past two years to win acceptance of such a footprint has been virtually abandoned because it is contrary to trends in buyer requirements.

Furthermore, foodservice buyers also have specialized container requirements often different from retailer requirements. In the end, however, the confusion is held to a minimum by the simple fact that onions normally are sold by weight and grade, which is consistent regardless of packaging.

Eliminating all container requirements in the handling regulations will enable the industry to ship onions in any and all containers preferred by consumers, buyers, and all retailers, which would benefit producers, handlers, buyers, and consumers of Texas onions enabling the industry to compete more effectively in the marketplace. This action will not impact the onion import requirements. Removing container requirements requires that all references to containers and applicable language also be removed from the order's rules and regulations. References to containers for onions for peeling, chopping, and slicing are also removed. Reference to these types of fresh processing methods will only be made in the introductory text of § 959.322 in order to avoid confusion with other types of processing, which are exempt from grade, size, and inspection requirements and to correct § 959.322(g)(1). In addition, several conforming and formatting changes are being made to clarify or remove some outdated language. Specifically, in § 959.104 *Fiscal period* the first sentence and first part of the second sentence need to be

removed. In § 959.322(d)(1), the reference to (f)(3)(ii) needs to be removed because no such section exists, and should be replaced with the correct reference to shipments for experimental purposes. The incorrect section was inadvertently placed in the regulation. Also, in paragraph (d)(1) the name of the inspection office should be corrected to reflect the correct name of the local inspection office and should include the Inspection Service's name referred to in the order. In addition, paragraphs (f)(2), (f)(3), and (f)(5) will be removed because they will no longer be applicable when container requirements are eliminated.

The opportunities and benefits of this rule are expected to be equally available to all onion handlers and regardless of their size of operation. The recommended changes will benefit the entire South Texas onion industry.

The alternatives would be to suspend the container requirements for a certain period of time or leave the regulations as they are. However, the Committee believed that the best action would be to eliminate all requirements completely to provide expanded flexibility.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the October 8, 2002, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Also, the Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on revisions to the rules and regulations currently prescribed under the South Texas onion marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements by providing additional marketing flexibility for the industry to ship onions; (2) this rule should be in place as soon as possible because the 2003 season begins March 1, 2003; (3) the Committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 959 is amended as follows:

#### PART 959—ONIONS GROWN IN SOUTH TEXAS

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

**Authority:** 7 U.S.C. 601–674.

2. Section 959.104 is revised to read as follows:

##### § 959.104 Fiscal period.

The fiscal period shall begin August 1 of each year and end July 31 of the following year, both dates inclusive.

##### § 959.237 [Amended]

3. In § 959.237, remove the words “container or”.

4. Section 959.322 is amended by:

A. Revising the introductory paragraph;

B. Removing paragraph (c);

C. Redesignating paragraph (d) as paragraph (c), and revising newly redesignated paragraph (c)(1);

D. Redesignating paragraph (e) as paragraph (d);

E. Redesignating paragraph (f) as paragraph (e), and revising redesignated paragraph (e);

F. Redesignating paragraph (g) as paragraph (f), and revising the introductory texts of newly redesignated paragraphs (f) and (f)(4); and

G. Redesignating paragraph (h) as paragraph (g) to read as follows:

##### § 959.322 Handling regulation.

During the period beginning March 1 and ending June 4, no handler shall handle any onions, including onions for peeling, chopping, and slicing, unless they comply with paragraphs (a) through (c) or (d) or (e) of this section.

\* \* \* \* \*

(c) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (d), (e)(1), or (e)(2)(i) of this section unless an inspection certificate has been issued by the Federal or Federal-State Inspection Service, Texas Cooperative Inspection Program, covering them and the certificate is valid at the time of shipment. City destinations shall be listed on inspection certificates and release forms.

\* \* \* \* \*

(e) *Special purpose shipments.* (1) The minimum grade, size, quality, and inspection requirements set forth in paragraphs (a) through (c) of this section shall not be applicable to shipments of onions for charity, relief and processing if handled in accordance with paragraph (f) of this section.

(2) *Experimental shipments.* Upon approval by the committee, onions may be shipped for experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with the safeguard provisions of paragraph (f) of this section.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade and size requirement of this section, and not exempt under paragraphs (d) or (e) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (f) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(f) *Safeguards.* Each handler making shipments of onions for relief, charity, processing, or experimental purposes shall:

\* \* \* \* \*

(4) In addition to provisions in the preceding paragraphs, each handler making shipments for processing shall:

\* \* \* \* \*

Dated: March 4, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03-5540 Filed 3-7-03; 9:08 am]

**BILLING CODE 3410-02-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NE-37-AD; Amendment 39-13080; AD 2003-05-04]

RIN 2120-AA64

#### **Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co KG, Model Tay 611-8, 620-15, 650-15, and 651-54 Turbofan Engines**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD) that is applicable to Rolls-Royce Deutschland Ltd. & Co KG (RRD) Model Tay 620-15 and 650-15 turbofan engines. That AD currently requires initial and repetitive inspections of certain low pressure (LP) fuel tubes. This amendment requires the same inspections and adds two engine models to the applicability. This amendment is prompted by a report that certain Tay 611-8 and 651-54 turbofan engines may use the same LP fuel tube. The actions specified in this AD are intended to prevent a dual-engine flameout due to fuel exhaustion, which could lead to forced landing and possible damage to the airplane.

**DATES:** Effective March 26, 2003. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of March 26, 2003. The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 18, 2002 (67 FR 71814; December 3, 2002).

Comments for inclusion in the Rules Docket must be received on or before May 12, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England

Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-NE-37-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce Deutschland Ltd. & Co KG, Eschenweg 11, D-15827 DAHLEWITZ, Germany; telephone 49 (0) 33-7086-1768; fax 49 (0) 33-7086-3356. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### **FOR FURTHER INFORMATION CONTACT:**

James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone 781-238-7176; fax 781-238-7199.

#### **SUPPLEMENTARY INFORMATION:**

On November 21, 2002, the FAA issued AD 2002-24-06, Amendment 39-12971 (67 FR 71814, December 3, 2002) to require an initial inspection within 300 hours time-in-service (TIS) after the effective date of the AD, or one month after the effective date of the AD, whichever occurred first. That action was prompted by a report of a dual-engine flameout on a Fokker F.28 Mark 0100 airplane that resulted in a forced landing and destruction of the airplane. That condition, if not corrected, could result in a dual-engine flameout due to fuel exhaustion, which could lead to forced landing and possible damage to the airplane. The Luftfahrt Bundesamt (LBA), which is the airworthiness authority for Germany, determined that a leak from the LP fuel tube, part number (P/N) JR33021A, which connects the LP fuel flowmeter to the high pressure (HP) fuel pump, resulted in complete fuel exhaustion and subsequent dual engine flameout.

Since AD 2002-24-06 was issued, the LBA has notified the FAA that the same unsafe condition may exist on RRD Model Tay 611-8 and 651-54 turbofan engines with Part 4 of RRD SB TAY-73-1194 incorporated.

#### **Manufacturer's Service Information**

RRD has issued SB TAY-73-1540, Revision 1, dated September 13, 2002, that specifies procedures for inspecting the LP fuel tube, P/N JR33021A, for fretting on Tay 620-15 and 650-15 turbofan engines. The LBA classified this service bulletin as mandatory and issued AD No. 2002-331, dated September 13, 2002, in order to ensure the airworthiness of these engines in Germany. RRD has also issued SB TAY-73-1553, Revision 1, dated December 13, 2002, that specifies procedures for inspecting the LP fuel tube, P/N JR33021A, for fretting on Tay 611-8 and 651-54 turbofan engines. The LBA classified this service bulletin as mandatory and issued AD No. 2002-358, dated November 28, 2002, in order to ensure the airworthiness of these RRD Model Tay 611-8 and 651-54 turbofan engines in Germany.

#### **Bilateral Airworthiness Agreement**

These engine models are type certificated in Germany, and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

#### **FAA's Determination of an Unsafe Condition and Required Actions**

Since an unsafe condition has been identified that is likely to exist or develop on other RRD Tay 611-8, 620-15, 650-15, and 651-54 turbofan engines of the same type design, this AD is being issued to prevent a dual-engine flameout due to fuel exhaustion, which could lead to forced landing and possible damage to the airplane. Since the effective date of AD 2002-24-06 was December 18, 2002, and all TAY 620-15 and 650-15 engines should have completed the initial inspection, this AD requires:

- An initial inspection of the LP fuel tube for fretting before further flight for Tay 620-15 and 650-15 turbofan engines.

- An initial inspection of the LP fuel tube for fretting within 300 hours TIS or one month after the effective date of this AD, whichever occurs first for Tay 611-8 and 651-54 turbofan engines.