

# Proposed Rules

Federal Register

Vol. 70, No. 102

Friday, May 27, 2005

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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 410

RIN 3206—AK46

#### Training

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing to amend its regulations concerning agency reporting requirements on training. The purpose of the revision is to assist agencies to effectively collect information that supports agency determinations of its workforce training needs, and document the results of training and development programs implemented to address those needs, by requiring input into the OPM Governmentwide electronic data collection system.

**DATES:** Comments must be received on or before July 26, 2005.

**ADDRESSES:** Send, deliver, or fax written comments to Mark Doboga, Deputy Associate Director for Talent and Capacity Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street NW., Washington, DC 20415-9700; e-mail: [employ@opm.gov](mailto:employ@opm.gov); fax: (202) 606-2329.

**FOR FURTHER INFORMATION CONTACT:** Loretta L. Reeves by telephone at (202) 606-2419, by fax at (202) 606-2329, by TDD at (202) 418-3134, or by e-mail at [Loretta.Reeves@opm.gov](mailto:Loretta.Reeves@opm.gov).

**SUPPLEMENTARY INFORMATION:** OPM is issuing proposed regulations to amend the rules in 5 CFR part 410, subparts C, D, and G, which address agency training records and reporting requirements. OPM is creating a Governmentwide electronic system to capture employee human resource information, which will include training data. This system is explained and agency reporting requirements defined in the *Guide to Personnel Recordkeeping* and the *Guide to Human Resources Reporting*.

To support this data collection, OPM is clarifying established policy to ensure that agencies maintain records of their training plans and to require that they report training data in the form as prescribed by the OPM Governmentwide Electronic Data Collection System. The Governmentwide system will allow agencies to maintain accurate records to facilitate reporting on a regular basis as prescribed by the *Guide to Personnel Recordkeeping* ([www.opm.gov/feddata/persdoc.asp](http://www.opm.gov/feddata/persdoc.asp)) and the *Guide to Human Resources Reporting* ([www.opm.gov/feddata/guidance.asp](http://www.opm.gov/feddata/guidance.asp)). In addition, there is a change in the period of time required for retaining records in subparts C and D, and a new method for reporting requirements.

We seek comments from reviewers as to whether the proposed regulation clarifies agency's responsibility to reporting data to the governmentwide system and to assure the guides listed assist agencies with implementation processes for reporting the data elements.

#### E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 410

Education, Government employees.

Office of Personnel Management.

**Dan G. Blair,**

*Acting Director.*

Accordingly, OPM proposes to amend part 410 of 5 CFR as follows:

#### PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

**Authority:** 5 U.S.C. 4101, *et seq.*, 4107; E.O. 11348, and (3 CFR, 1967 Comp., p 275).

#### Subpart C—Establishing and Implementing Training Programs

**§ 410.311 [Removed]**

2. Remove § 410.311.

#### Subpart D—Paying for Training Expenses

**§ 410.406 [Removed]**

3. Remove § 410.406.

#### Subpart G—Reporting

4. In subpart G, revise the subpart title to read as set forth above.

5. Revise § 410.701 to read as follows:

#### § 410.701 Reporting.

(a) Each agency shall maintain records of training plans, expenditures, and activities in such form and manner as necessary to submit the recorded data to the Office of Personnel Management through the OPM Governmentwide Electronic Data Collection System.

(b) Each agency shall report the training data for its employees' training and development at such times and in such form as required for the OPM Governmentwide Electronic Data Collection System which is explained in the *Guide to Personnel Recordkeeping* and the *Guide to Human Resources Reporting*.

(c) Each agency shall establish a Schedule of Records for information required to be maintained by this chapter in accordance with regulations promulgated by the National Archives and Records Administration (NARA).

[FR Doc. 05-10641 Filed 5-26-05; 8:45 am]

**BILLING CODE 6325-38-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 966

[Docket No. FV05-966-1 PR]

#### Tomatoes Grown in Florida; Revisions in Requirements for Certificates of Privilege

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on revisions to the Certificate of Privilege (COP) requirements currently prescribed under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida and is administered locally by the Florida Tomato Committee (Committee). This rule

would require those interested in receiving Florida tomatoes shipped under a COP to apply to the Committee to become an approved receiver. This rule would also clarify the definitions for processing and pickling as used in the rules and regulations under the order. These changes would assist the Committee in assuring that COP tomatoes are disposed of into COP outlets.

**DATES:** Comments received by July 26, 2005, will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by July 26, 2005.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. 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); or Internet: <http://www.regulations.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:** William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884-1671; Telephone: (863) 324-3375; Fax: (863) 325-8793; 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 proposal is issued under Marketing Agreement No. 125 and Marketing Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, 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 proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal 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 would revise the COP requirements currently prescribed under the order. This action would require all parties interested in receiving Florida tomatoes shipped under a COP to apply to the Committee to become an approved receiver. This change would assist the Committee in preventing tomatoes shipped under a COP from entering unauthorized outlets. This rule would also clarify the definitions for processing and pickling as used in the rules and regulations under the order. The Committee unanimously recommended these changes at a meeting held on September 9, 2004.

Section 966.54 of the order provides authority for the modification, suspension, and termination of regulations to facilitate the handling of tomatoes for special purposes such as export, charity, processing, or other purposes as specified by the Committee and approved by USDA. Section 966.56 of the order provides authority for the application of adequate safeguards to prevent tomatoes handled pursuant to § 966.54 from entering channels of trade for other than the specified purpose or purposes. Sections 966.120-123 of the

order's rules and regulations specify the provisions required under a COP to allow tomatoes for pickling, processing, charity, relief, export, or experimental purposes to be shipped free from certain order requirements. The COP procedures include safeguards to ensure that the tomatoes are shipped for these purposes. The safeguards are also highlighted in § 966.323(c). Section 966.323(g) provides the definition of processing.

This rule would add a new § 966.124 to the order's rules and regulations. This section would require that handlers could only ship tomatoes under a COP to receivers approved by the Committee and would outline the receiver application procedures. Section 966.323(c) would also be modified to reflect the new COP requirements.

The COP provisions allow tomatoes for pickling, processing, charity, relief, export, or experimental purposes to be shipped free from certain order requirements. Consequently, it is important that adequate safeguards exist to assure that such tomatoes are disposed of properly. For example, the Committee noted that tomatoes shipped during the 2003-04 season under a COP for processing were being shipped into the domestic fresh market and not for the intended COP purpose.

The volume of tomatoes shipped for processing under COPs is significant enough to negatively impact the market for fresh tomatoes if these tomatoes are utilized in markets other than those specified in the COP. Last season, nearly 500,000 25-pound equivalent units of Florida tomatoes were shipped under COPs. Consequently, the Committee agreed that additional steps need to be taken to ensure that tomatoes shipped under a COP are only utilized for the purposes specified.

Last season, when the issue with COP tomatoes surfaced, the Committee staff looked for ways to address the problem. Using the current safeguard procedures, those handlers who had shipped to receivers that had used tomatoes shipped under a COP for purposes different than specified had their COPs canceled. Some handlers noted that they had shipped the tomatoes to their receiver in good faith, and that the receiver was responsible for the problem. Further, because the handlers had used COPs to ship to more than one receiver, those handlers affected were no longer able to take advantage of the exemptions provided under the COP provisions.

Considering this, the Committee believes one way to help ensure that tomatoes shipped under a COP are not being misused is to provide for

safeguards on receivers. To address the situation, the Committee recommended that all receivers interested in receiving tomatoes shipped under a COP be required to apply to the Committee to become an approved receiver. In addition, handlers would only be able to ship under a COP to those approved receivers.

Should a receiver utilize the tomatoes for purposes other than specified under the COP, their status as an approved receiver with the Committee would be rescinded. As a result, such a receiver would no longer be eligible to receive tomatoes from any handler under a COP, but would only be able to receive tomatoes meeting the existing grade and size requirements under the order.

Under the provisions that would be added by this rule, anyone interested in receiving tomatoes under a COP would have to file an application with the Committee for review and approval. This would include persons acquiring tomatoes for processing or pickling, as well as tomatoes acquired for relief or charity, for export, for experimental purposes, or for other purposes specified by the Committee. This application would include the name, address, telephone number, and e-mail address of applicant (receiver), the purpose for which the COP tomatoes would be used, physical address where the stated privilege purpose would be accomplished, an indication of whether or not the receiver packs, repacks, or sells fresh tomatoes, a statement that the tomatoes obtained would only be used for the purposes stated in the COP, a statement agreeing to undergo random inspections by the Committee, and an agreement to submit reports as required. The Committee believes that this additional information would be valuable in helping to verify legitimate receivers.

The Committee staff would use the information in the application to investigate and approve receivers wanting to receive tomatoes under COPs. The approved receivers and the tomatoes shipped under the COP provisions would be monitored throughout the year. If during the season an approved receiver is found to be handling tomatoes in ways other than specified under the COP, that receiver's approval would be rescinded. The Committee believes this change would help it better assure that COP tomatoes were shipped into the intended COP outlets. Moreover, handlers who may have shipped to non-compliant receivers would still be able to ship to other approved COP receivers.

This rule also would amend the definition for processing contained in

§ 966.323 and would add a definition for pickling. Over the past few years, there have been an increasing number of questions surrounding what constitutes a fresh product and what constitutes processing. To help reduce any confusion and to ensure uniformity, the Committee believes it is important to make the definitions for processing and pickling in the order's rules and regulations as clear as possible.

Currently, processing is defined as the manufacture of any tomato product which has been converted into juice, or preserved by any commercial process, including canning, dehydrating, drying, and the addition of chemical substances. This rule would amend this definition to specify further that all processing procedures must result in a product that does not require refrigeration until opened.

In addition to the changes to the definition for processing, a specific definition for pickling would also be added. Pickling would be defined as tomatoes preserved in a brine or vinegar solution. These clarifications should lessen the chance of confusion between handlers and purchasers regarding tomatoes covered under a COP.

The Committee believes this rule would strengthen the existing safeguard provisions and would help deter the use of Florida COP tomatoes for unauthorized purposes. By requiring persons who wish to receive tomatoes under COPs to apply to the Committee to become approved receivers, the Committee would have additional information regarding receivers and the ability to rescind their approved receiver status, if necessary. The Committee also believes enhancing the definitions for processed and pickled tomatoes would help further clarify the appropriate uses of tomatoes shipped under a COP. Therefore, the Committee voted unanimously to make these changes.

#### **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 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 100 producers of tomatoes in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,000,000 (13 CFR 121.201). Currently, there are about 20 receivers who obtain tomatoes under COPs.

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2003–04 season was approximately \$8.04 per 25-pound container, and fresh shipments for the 2003–04 season totaled 57,989,624 25-pound cartons of tomatoes. Committee data indicates approximately 25 percent of the handlers handle 94 percent of the total volume shipped outside the regulated area. Based on the average price, about 75 percent of handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida tomato handlers may be classified as small entities. It is believed that the majority of Florida tomato receivers and producers may be classified as small entities.

This rule would revise the COP requirements currently prescribed under the order. This rule would require those interested in receiving Florida tomatoes shipped under a COP to apply to the Committee to become an approved receiver. This change would assist the Committee in assuring that tomatoes shipped under COPs are used for the intended COP purposes. This rule would also clarify the definitions for processing and pickling as used in the rules and regulations under the order. These clarifications would help reduce confusion between handlers and purchasers of tomatoes covered under a COP. The Committee unanimously recommended these changes at a meeting held on September 9, 2004. This rule would add a new § 966.124 to the rules and regulations, amend the safeguard provisions specified in § 966.323(c), and revise the definitions specified in § 966.323(g). Authority for these actions is provided for in §§ 966.54 and 966.56 of the order.

It is not anticipated that these changes would result in any increased costs for growers, handlers, or receivers who comply with COP requirements. The Committee recommended these changes to improve compliance with the provisions established under COPs.

Because nearly 99 percent of Florida tomato shipments are utilized in the domestic fresh market, it is important to assure that tomatoes shipped under COPs are disposed of properly. Adequate safeguards are needed for this purpose.

This action would have a beneficial impact on producers, handlers, and receivers in that it would continue to allow approved receivers to obtain COP tomatoes. Handlers shipping to approved COP receivers also would benefit because the non-compliant receivers would be removed from the Committee's approved receiver list and the handler could continue to take advantage of the exemptions by shipping to other approved COP receivers. Clarifying the definitions of processing and pickling would also help alleviate some of the questions and any confusion concerning what constitutes these procedures. The opportunities and benefits of this rule are expected to be equally available to all tomato handlers and growers regardless of their size of operation.

However, requiring receivers to register with the Committee would impose an additional reporting burden on both small and large receivers. Requiring receivers to apply annually would increase the annual burden by five minutes per receiver, for a total burden of 1.67 hours (5 minutes per response  $\times$  1 response per receiver  $\times$  20 receivers). Although this action would place an additional burden on receivers of Florida COP tomatoes, the benefits of having the additional information regarding receivers would outweigh the increase in reporting burden.

The Committee discussed alternatives to this action. One alternative considered was to further restrict handlers when shipping tomatoes under a COP. The Committee recognized that some industry members have developed markets for these tomatoes, which would otherwise be discarded. Therefore, the Committee voted to make the changes in this rule rather than further restricting this outlet. Another alternative considered was to only require processors and picklers to apply to the Committee. However, the Committee believed that the application process should be applicable to all parties receiving tomatoes under a COP. Consequently, this alternative was rejected.

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

The Committee's meeting was widely publicized throughout the tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the September 9, 2004, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. 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/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

As mentioned previously, this action would require an additional collection of information. These information collection requirements are discussed in the following section.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that AMS is seeking approval for a new form to collect additional information from persons interested in acquiring tomatoes under a Certificate of Privilege (COP), under Marketing Order No. 966, Tomatoes Grown in Florida (order). Upon Office of Management and Budget (OMB) approval, the additional burden will be merged into the information collection currently approved under OMB No. 0581-0178, Vegetable and Specialty Crops Marketing Orders.

*Title:* Tomatoes Grown in Florida, Marketing Order No. 966.

*OMB Number:* 0581-NEW.

*Type of Request:* New collection.

*Abstract:* The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Florida tomato marketing order program, which has been operating since 1955.

On September 9, 2004, the Committee unanimously recommended revising the order's administrative rules and regulations to require persons wishing to receive Florida tomatoes exempt from certain order requirements under a COP to register with the Committee annually and provide information on their facilities. This information would be reported on form number FTC-111,

"Application for Registration as an Approved Receiver of Special Purpose Shipments." This form would be filled out by persons wishing to receive tomatoes shipped under a COP, and would be submitted to the Committee to obtain approval as a receiver of special purpose shipments. The estimated increase in burden due to the new form required from each entity annually is 5 minutes per person, with a total increased burden estimated at 1.67 hours.

The form is needed so the Committee can collect information on persons wishing to receive shipments of COP tomatoes. The Committee would evaluate this information and determine whether an entity is qualified to receive COP tomatoes. This form would help ensure compliance with the regulations and assist the Committee and the USDA with oversight and planning.

The information collected would be used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized Committee employees. Authorized Committee employees would be the primary users of the information and AMS would be the secondary user.

The request for approval of the revised information collection under the order is as follows:

*Form FTC-111, "Application for Registration as an Approved Receiver of Special Purpose Shipments".*

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 5 minutes per response.

*Respondents:* Entities who acquire and/or process Florida tomatoes under a COP annually.

*Estimated Number of Respondents:* 20.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1.67 hours.

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-NEW and the Florida tomato marketing order, and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

In addition to the information collection burden, this rule also invites comments on revising the regulations concerning the COP requirements. A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is proposed to be amended as follows:

#### PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. In Part 966, a new § 966.124 is added to read as follows:

##### § 966.124 Approved receiver.

(a) *Approved receiver.* Any person who desires to acquire, as an approved receiver, tomatoes for purposes as set forth in § 966.120(a), shall annually, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

(1) Name, address, contact person, telephone number, and e-mail address of applicant;

(2) Purpose of shipment;

(3) Physical address of where manufacturing or other specified purpose is to occur;

(4) Whether or not the receiver packs, repacks or sells fresh tomatoes;

(5) A statement that the tomatoes obtained exempt from the fresh tomato regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for the purpose specified in the corresponding certificate of privilege;

(6) A statement agreeing to undergo random inspection by the committee;

(7) A statement agreeing to submit such reports as is required by the committee.

(b) The committee, or its duly authorized agents, shall give prompt consideration to each application for an approved receiver and shall determine whether the application is approved or disapproved and notify the applicant accordingly.

(c) The committee, or its duly authorized agents, may rescind a person's approved receiver status upon proof satisfactory that such a receiver has handled tomatoes contrary to the provisions established under the Certificate of Privilege. Such action rescinding approved receiver status shall apply to and not exceed a reasonable period of time as determined by the committee or its duly authorized agents. Any person who has been denied as an approved receiver or who has had their approved receiver status rescinded, may appeal to the committee for reconsideration. Such an appeal shall be made in writing.

3. In § 966.323, a new paragraph (c)(5) is added and paragraph (g) is amended by removing the last three sentences and adding five new sentences in their place to read as follows:

##### § 966.323 Handling regulations.

\* \* \* \* \*

(c) \* \* \*

(5) Make shipments only to those who have qualified with the committee as approved receivers.

\* \* \* \* \*

(g) \* \* \* *Processing* as used in §§ 966.120 and 966.323 means the manufacture of any tomato product which has been converted into juice, or preserved by any commercial process, including canning, dehydrating, drying, and the addition of chemical substances. Further, all processing procedures must result in a product that does not require refrigeration until opened. *Pickling* as used in §§ 966.120 and 966.323 means to preserve tomatoes in a brine or vinegar solution. *U.S. tomato standards* means the revised United States Standards for Fresh Tomatoes (7 CFR 51.1855 through 51.1877), effective October 1, 1991, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

Dated: May 20, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–10468 Filed 5–26–05; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000–NE–12–AD]

RIN 2120–AA64

#### Airworthiness Directives; Turbomeca S.A. Arrius Models 2B, 2B1, and 2F Turboshaft Engines

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

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

**SUMMARY:** The FAA proposes to revise an existing airworthiness directive (AD) for Turbomeca S.A. Arrius Models 2B, 2B1, and 2F turboshaft engines. That AD currently requires replacing the right injector half manifold, left injector half manifold, and privilege injector pipe. This proposed AD would require the same actions, but relaxes the compliance time for the repetitive replacements on Arrius 2F engines. This proposed AD results from Turbomeca relaxing the repetitive replacement interval for Arrius 2F engine fuel nozzles based on review of returned fuel nozzles to Turbomeca. We are proposing this AD to prevent engine flameout during rapid deceleration, or the inability to maintain the 2.5 minutes one engine inoperative (OEI) rating, and to prevent air path cracks due to blockage of the fuel injection manifolds.

**DATES:** We must receive any comments on this proposed AD by July 26, 2005.

**ADDRESSES:** Use one of the following addresses to comment on this proposed AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–12–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

- By fax: (781) 238–7055.

- By e-mail: [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov).

You can get the service information identified in this proposed AD from Turbomeca S.A., 40220 Tarnos, France; telephone: (33) 05 59 64 40 00; fax: (33) 05 59 64 60 80.

You may examine the AD docket, by appointment, at the FAA, New England