Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305

[Docket No. APHIS-2008-0140]

Amendments to Treatments for Sweet Cherry and Citrus Fruit from Australia and Irradiation Dose for Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations pertaining to approved phytosanitary treatments of fruits and vegetables by adding new treatment schedules for sweet cherries and for certain species of citrus fruit imported from Australia into the United States. Based on our treatment evaluation, we have determined that the proposed treatments would be effective against Mediterranean fruit fly and Queensland fruit fly, pests associated with sweet cherries and citrus fruit from Australia. We also propose to establish an approved irradiation dose for Mediterranean fruit fly of 100 gray, which is lower than the generic dose of 150 gray that is approved for all fruit flies. New peer-reviewed data indicate that the 100 gray irradiation dose will neutralize Mediterranean fruit fly. These changes would offer more flexibility in treatments while continuing to prevent the introduction or interstate movement of quarantine pests.

DATES: We will consider all comments that we receive on or before December 18, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0140*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send two copies of your comment to Docket No. APHIS-2008-0140, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2008-0140.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Dr. Inder P.S. Gadh, Senior Risk Manager –Treatments, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-8578.

SUPPLEMENTARY INFORMATION:

Background

The phytosanitary treatments regulations contained in 7 CFR part 305 (referred to below as the regulations) set out standards and schedules for treatments required in 7 CFR parts 301, 318, and 319 for fruits, vegetables, and articles to prevent the introduction or dissemination of plant pests or noxious weeds into or through the United States. Section 305.2 lists approved treatments; paragraph (h)(2)(i) lists approved treatments specifically for imported fruits and vegetables. The irradiation treatments subpart (§§ 305.31 through 305.34) sets out standards and minimum doses for irradiation treatment of imported fruits and vegetables and of regulated articles moved interstate from quarantined areas within the United States.

We are proposing to amend the regulations by adding new treatment schedules to the list of approved treatments in § 305.2(h)(2)(i) for sweet cherries and for citrus fruit imported from Australia into the United States. These new treatment schedules would also be added to the list of approved methyl bromide treatments in § 305.6(a) and the list of approved cold treatments in § 305.16. We also propose to establish an approved irradiation dose of 100 gray (Gy) for *Ceratitis capitata* (Mediterranean fruit fly, or Medfly). This dose is lower than the currently approved generic dose of 150 Gy for all fruit flies set forth in § 305.31(a).

Phytosanitary Treatments for Sweet Cherries from Australia

Commercial shipments of fresh sweet cherries from Australia may be imported into the continental United States and Hawaii if the fruit originates from an area determined by the Animal and Plant Health Inspection Service (APHIS) to be free of fruit flies in accordance with § 319.56-5 or if the fruit receives an APHIS-approved treatment for fruit flies in accordance with treatment schedules listed in part 305.[1] For *Bactrocera tryoni* (Queensland fruit fly) and Medfly in commercial shipments of sweet cherries, methyl bromide/cold treatment combination treatments T108-a-1, T108-a-2, and T108-a-3, listed in § 305.10(a)(3) and performed in accordance with the treatment conditions in that section, are the existing approved treatments.

While the existing approved treatments for sweet cherries are effective in treating both Queensland fruit fly and Medfly, there are production areas of Australia where only one of those quarantine pests is present, so treatment for both pests is not always necessary. Also, in some instances, combination treatments for sweet cherries have resulted in diminished fruit quality. The Australian national plant protection organization (NPPO) has therefore proposed a cold treatment that targets Queensland fruit fly and a methyl bromide fumigation treatment that targets Medfly.

APHIS evaluated and approved the proposed new treatments, which are based on data assembled by the Australian NPPO. The results of our evaluation are documented in a treatment evaluation document titled

[1]The list of areas considered by APHIS to be free of fruit flies is located online at (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf*). Commodity import treatment requirements can be found in the Fruits and Vegetables Import Requirements Database at (*https://epermits.aphis.usda.gov/manual/index.cfm*).

'' '08 Periodic Treatment Amendments to 7 CFR Part 305'' (October 2008). Copies of the evaluation may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov). We determined that the proposed treatments will effectively treat Queensland fruit fly and Medfly in sweet cherries from Australia. As a result, we are proposing to add a new methyl bromide treatment schedule T101-s-1-1 to the list of approved treatments in § 305.2(h)(2)(i) for Medfly in sweet cherries from Australia. T101-s-1-1 would be added to the methyl bromide treatment schedules in § 305.6(a) to read as follows:

Treatment schedule	Pressure	Temperature (°F)	Dosage rate (lb/1,000 ft.)	Exposure period (hours)
T101-s-1-1	NAP	63 or above	2.5	2 hours

To ensure the effectiveness of the proposed methyl bromide treatment for sweet cherries, APHIS has determined that a number of specific treatment conditions should be followed. The conditions, listed below, would be included with treatment schedule T101-s-1-1 in the Plant Protection and Quarantine (PPQ) Treatment Manual.[2]

- Fumigation of cherries only
- Chamber fumigation only
- Load factor must not exceed 21 percent (by volume)
- Fruit must be fumigated in non-sorptive ventilated export cartons
- Recirculation fan must be operated continuously during the fumigation

Additionally, treatment schedule T101-s-1-1 would need to be conducted in accordance with the general chemical treatment requirements in § 305.5.

We are also proposing to add a new cold treatment schedule T107-d-1 to the list of approved treatments in § 305.2(h)(2)(i) for Queensland fruit fly in sweet cherries from Australia. T107-d-1 would also be added to the list of cold treatment schedules in § 305.16 to read as follows:

Treatment schedule	Temperature (°F)	Exposure period
T107-d-1	33.8 or below	14 days
	37.4 or below	15 days

If treatment of sweet cherries for either Queensland fruit fly or Medfly is based on the product being from an area in Australia determined by APHIS to be free of one of these pests, this fact must be included on the phytosanitary certificate in accordance with § 319.56-5, which sets out requirements for pest-free areas.[3] This is consistent with existing certification requirements for areas determined by APHIS to be free of both pests. Existing treatments for sweet cherries would continue to be approved treatment options.

Phytosanitary Treatments for Citrus Fruit from Australia

The Australian NPPO also requested that APHIS evaluate and approve additional cold treatment schedules for certain species of citrus fruit. APHIS reviewed the data submitted by the Australian NPPO in the treatment evaluation document referred to above and determined that the proposed treatments for citrus to be exported from Australia to the United States would be effective. As a result, we are proposing to add several new cold treatment schedules to the list of approved treatments in § 305.2(h)(2)(i) for Queensland fruit fly and Medfly in citrus from Australia. These new proposed cold treatments, while less stringent than existing treatments, have been shown to be effective against their respective target pests.

T107-a-2, the proposed treatment for Medfly in oranges and tangors from Australia, would be added to the list of cold treatment schedules in § 305.16 to read as follows:

Treatment schedule	Temperature (°F)	Exposure period
T107-a-2	37.4 or below	20 days

T107-a-3, the proposed treatment for Medfly in lemons from Australia, would be added to the list of cold treatment schedules in § 305.16 to read as follows:

Treatment schedule	Temperature (°F)	Exposure period
T107-a-3	35.6 or below	16 days
	37.4 or below	18 days

T107-d-2, the proposed treatment for Queensland fruit fly in oranges, tangerines, and tangors from Australia, would be added to the list of cold treatment schedules in § 305.16 to read as follows:

[2] Available on the Internet at (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/treatment.shtml*).

[3] *See* footnote 1 for a list of areas considered by APHIS to be free of fruit flies.

Treatment schedule	Temperature (°F)	Exposure period
T107-d-2	37.4 or below	16 days

T107-d-3, the proposed treatment for Queensland fruit fly in lemons from Australia, would be added to the list of cold treatment schedules in § 305.16 to read as follows:

Treatment schedule	Temperature (°F)	Exposure period
T107-d-3	37.4 or below	14 days

These treatments would need to be conducted in accordance with the general cold treatment requirements in § 305.15. These include standards that must be met by the facility performing cold treatment and the enclosure in which cold treatment is performed; monitoring requirements; procedural requirements for performing cold treatment; and a required compliance agreement or workplan to ensure that these requirements are followed, under appropriate oversight from APHIS. Existing treatments for citrus fruit would continue to be approved treatment options.

Approved Dose for Irradiation Treatment for Medfly

The regulations in § 305.31(a) for irradiation treatment of imported fruits and vegetables specify minimum approved doses ranging from 60 Gy to 400 Gy, depending on the pests being targeted for treatment. The regulations for irradiation treatment of regulated articles moved interstate from areas quarantined for plant pests in § 305.32 and for articles moved interstate from Hawaii, Puerto Rico, and the U.S. Virgin Islands in § 305.34 refer to this list of approved doses. The fact that the required irradiation doses are specific to plant pests rather than the commodities they are associated with reflects the fact that the effectiveness of irradiation treatment depends entirely on the dose that is absorbed by the commodity. Specific characteristics of the fruits or vegetables being treated, which may need to be considered in developing other phytosanitary treatments, are irrelevant to the effectiveness of irradiation as long as the required minimum dose is absorbed.

As indicated in § 305.31(a), APHIS has approved a 150 Gy irradiation dose as a treatment to effectively treat pest risks associated with fruit flies of the family Tephritidae, including Medfly, in associated articles. However, data from USDA's Agricultural Research Service, reviewed by APHIS and subsequently published in peer-reviewed journals,[4] demonstrates the effectiveness of a 100 Gy dose in neutralizing Medfly. It is important that required irradiation doses for plant pests be set at the lowest effective level, as higher doses of irradiation treatment cost more to administer and can cause some fruits and vegetables to undergo undesirable changes in color and texture. In addition, requiring the lowest effective absorbed dose for irradiation treatment is consistent with our commitments under the International Plant Protection Convention to require the least restrictive phytosanitary measures consistent with achieving adequate phytosanitary security.

We are therefore proposing to amend the regulations in § 305.31(a) to specify a 100 Gy approved irradiation dose for Medfly. The treatment would be conducted in accordance with the other provisions of § 305.31.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis,'' which will ''describe the impact of the proposed rule on small entities'' (5 U.S.C. § 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The following economic analysis provides a factual basis to support the certification of the proposed rule to allow more flexibility in treatments of sweet cherries and citrus fruit from Australia for Medfly and Queensland fruit fly, and to establish a 100 Gy approved irradiation dose for Medfly.

The United States is the second-largest producer of sweet cherries in the world, accounting for more than 10 percent of world production. Total U.S. sweet cherry production in 2008 was 247,060 tons (224,074 metric tons), valued at $570 million. Washington, California, Oregon, and Michigan are the primary sweet cherry-producing States, accounting for more than 97 percent of the quantity produced nationwide. The marketing season for U.S. sweet cherries lasts from early May to mid-August.[5]

Globally, the United States is the largest fresh cherry trader, with $273 million in exports and $84 million in imports (mostly from Chile) in 2008. Cherries have been a popular fruit crop for consumption in the United States for many years. In 2008, per-person consumption of cherries was 2.2 pounds.

Tables 1 and 2 show the quantity and value of U.S. exports and imports of fresh sweet cherries, worldwide and in trade with Australia, over the past 5 years. As shown, fresh sweet cherry imports from Australia have been minimal, although they increased substantially in 2007, to nearly 1 percent of U.S. fresh cherry imports, and again, in 2008, to about 1.4 percent of imports.

[4]Follet, P. A. and J. W. Armstrong. 2004. Revised irradiation doses to control melon fly, Mediterranean fruit fly, and Oriental fruit fly (Diptera: Tephritidae) and a generic dose for tephritid fruit flies. *Journal of Economic Entomology* 97: 1254-1262; Torres-Rivera, Z. and G. J. Hallman. 2007. Low-dose irradiation phytosanitary treatment against Mediterranean fruit fly (Diptera: Tephritidae). *Florida Entomologist* 90: 343-346.

[5]National Agricultural Statistics Service (NASS), 2008 Preliminary Summary.

TABLE 1.—VOLUME OF U.S. TRADE OF FRESH SWEET CHERRIES, IN KILOGRAMS

Year	U. S. exports to:		U. S. imports from:		
	World	Australia	World	Australia	Import share from Australia (percent)
2004	42,860,778	1,806,426	6,408,946	1,277	0.02
2005	47,924,605	2,320,227	9,450,547	39,865	0.42
2006	42,237,537	961,860	12,926,878	2,376	0.02
2007	51,190,265	1,108,798	15,275,917	144,369	0.95
2008	45,782,592	1,554,916	24,667,589	342,948	1.39

Source: Global Trade Atlas, 2009; (*http://www.gtis.com/gta/*)

TABLE 2.—VALUE OF U.S. TRADE OF FRESH SWEET CHERRIES, IN MILLION U.S. DOLLARS

Year	U. S. exports to:		U. S. imports from:		
	World	Australia	World	Australia	Import share from Australia (percent)
2004	$186.865	$10.402	$16.085	$0.013	0.08
2005	$209.859	$10.000	$29.086	$0.079	0.27
2006	$204.912	$6.863	$43.454	$0.005	0.01
2007	$255.669	$7,643	$49.781	$0.274	0.55
2008	$272.614	$12.025	$84.074	$0.544	0.65

Source: Global Trade Atlas, 2009; (*http://www.gtis.com/gta/*)

After Brazil and China, the United States is the world's third largest producer of citrus fruits. Total U.S. citrus fruit production in 2008 was around 11 million tons. The United States is the number one producer of grapefruits and the number two producer of oranges in the world. The two major U.S. citrus-producing States are Florida and California, followed by Arizona and Texas.

The United States, Spain, and South Africa are the top three exporters of citrus, with roughly an equal share of exports. Tables 3 and 4 show the quantity and value of U.S. exports and imports of fresh and dried citrus fruits, worldwide and in trade with Australia, over the past 5 years. Citrus fruit imports from Australia have been minimal, between 4.2 and 6.2 percent of U.S. citrus imports, and have remained relatively steady in terms of volume. In terms of value (table 4), the share has slightly decreased over the 5-year period indicated, from 10.31 percent of the total citrus import share in 2004 to 7.66 percent in 2008.

TABLE 3.—VOLUME OF U.S. TRADE OF CITRUS FRUIT, FRESH AND DRIED, IN KILOGRAMS

Year	U. S. exports to:		U. S. imports from:		
	World	Australia	World	Australia	Import share from Australia (percent)
2004	1,064,206,680	14,046,557	478,905,296	26,997,917	5.64
2005	917,993,249	15,965,437	521,739,701	32,324,028	6.19
2006	964,067,652	19,074,874	550,692,978	26,771,769	4.86
2007	835,814,014	24,418,696	678,800,752	34,144,895	5.03
2008	1,021,730,291	29,577,809	600,297,180	25,347,539	4.22

Source: Global Trade Atlas, 2009; (*http://www.gtis.com/gta/*)

TABLE 4.—VALUE OF U.S. TRADE OF CITRUS FRUIT, IN MILLION U.S. DOLLARS

Year	U. S. exports to:		U. S. imports from:		
	World	Australia	World	Australia	Import share from Australia (percent)
2004	$667.948	$12.440	$307.146	$31.680	10.31
2005	$631.538	$16.942	$356.441	$36.381	10.19
2006	$703.975	$21.597	$407.356	$29.346	7.20
2007	$699.567	$20.267	$501.064	$41.661	8.31
2008	$814.667	$28.661	$422.880	$32.404	7.66

Source: Global Trade Atlas, 2009; (*http://www.gtis.com/gta/*)

As shown in tables 1 through 4, the United States imports relatively small quantities of fresh sweet cherries and citrus from Australia. For this reason, the proposed rule is expected to have minimal economic effects on U.S. entities, large or small, including cherry and citrus producers, importers, wholesalers, and distributors.

The proposed rule would bring more flexibility to the treatment requirements for cherries and citrus from Australia, but given the minimal quantities imported to the United States, this change is not expected to significantly affect their supply or cost. Likewise, any improvements in fruit quality resulting from these treatment changes is not expected to have a significant impact on supply or cost to U.S. consumers or producers.

Any businesses that may be affected are likely to be small according to Small Business Administration (SBA) guidelines. The SBA small-entity standard for cherry and citrus farms is $750,000 or less in annual receipts. APHIS does not have information on the size distribution of the relevant producers, but according to 2007 U.S. Census of Agriculture data, there were a total of 2,204,792 farms in the United States, of which approximately 97 percent had annual sales of less than $500,000, which is well below the SBA's small entity threshold. In the case of fresh fruit and vegetable wholesalers, establishments in the category ''Fresh Fruit and Vegetable Merchant Wholesalers'' (NAICS 424480) with no more than 100 employees are considered small by SBA standards. In 2002, there were a total of 5,397 fresh fruit and vegetable wholesale trade firms in the United States. Of these firms, 4,644 firms operated for the entire year; of those firms, 4,436 or 95.5 percent employed fewer than 100 employees.[6]

The proposed changes would reduce costs for Australian exporters of fresh sweet cherries and citrus to the United States by reducing the treatment requirements when either Medfly or the Queensland fruit fly is present, but not both pests. We do not know how frequently these circumstances occur. Nonetheless, the savings are expected to be minimal, and are unlikely to significantly affect the quantities of fresh sweet cherries or citrus exported to the United States. The establishment of 100 Gy as the new minimum absorbed dose for Medfly may have minimal effects for exporters to the United States of a range of commodities from countries besides Australia. However, this change is not expected to have a significant effect on the cost or supply of U.S. imports irradiated for Medfly, because the quantity of fruits, vegetables, and other articles irradiated for plant pests for import to the United States is minimal relative to the overall quantity of imported articles treated by methods other than irradiation. In addition, the revised irradiation dosage requirements are not expected to significantly affect irradiation treatment costs.

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) No retroactive effect will be given to this rule; and (2) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

■ Accordingly, we propose to amend 7 CFR part 305 as follows:

PART 305—PHYTOSANITARY TREATMENTS

1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371. 3.

2. In § 305.2, the table in paragraph (h)(2)(i) is amended by adding, in alphabetical order under Australia, new entries for ''Cherry'', ''Lemons'', ''Oranges, tangerines, and tangors'', and ''Oranges, tangors'', to read as follows:

§305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

[6]NASS, 2002 Economic Census.

Location	Commodity	Pest	Treatment schedule
* * * * * * *			
Australia			
* * * * * * *			
	Cherry	*Bactrocera tryoni*	T107-d-1.
		Ceratitis capitata	T107-s-1-1.
* * * * * * *			
	Lemons	*Bactrocera tryoni*	T107-d-3.
		Ceratitis capitata	T107-a-3.
	Oranges, tangerines, and tangors	*Bactrocera tryoni*	T107-d-2.
	Oranges, tangors	*Ceratitis capitata*	T107-a-2.
* * * * * * *			

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3. In § 305.6, the table in paragraph (a) is amended by adding, in alphabetical order, a new entry for treatment schedule T101-s-1-1 to read as follows:

§305.6 Methyl bromide fumigation treatment schedules.

(a) * * *

Treatment schedule	Pressure	Temperature (°F)	Dosage rate (lb/1000 ft.)	Exposure period (hours)
*	*	*	*	*
T101-s-1-1.	NAP	63 or above	2.5	2
*	*	*	*	*

* * * * *

4. In § 305.16, the table is amended by adding, in alphabetical order, new entries for treatment schedules T107-a-2, T107-a-3, T107-d-1, T107-d-2, and T107-d-3, to read as follows:

§ 305.16 Cold treatment schedules.

Treatment schedule	Temperature (°F)	Exposure period
* *	* * *	* *
T107-a-2.	37.4 or below	20 days.
T107-a-3.	35.6 or below	16 days.
	37.4 or below	18 days.
* *	* * *	* *
T107-d-1.	33.8 or below	14 days.
	37.4 or below	15 days.
T107-d-2.	37.4 or below	16 days.
T107-d-3.	37.4 or below	14 days.
* *	* * *	* *

5. In § 305.31, the table in paragraph (a) is amended by adding, in alphabetical order, a new entry for *Ceratitis capitata* to read as follows:

§305.31 Irradiation treatment of imported regulated articles for certain plant pests.

(a) * * *

Scientific name	Common name	Dose (gray)
* * * * * * *		
Ceratitis capitata	Mediterranean fruit fly	100
* * * * * * *		

* * * * *

Done in Washington, DC, this 6th day of October, 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–25120 Filed 10–16–09: 8:45 am]

BILLING CODE: 3410–34–S

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0295; Directorate Identifier 2007–NM–298–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

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

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for all Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes. The original NPRM would have required an inspection of the two spring arms in the spin brake assemblies in the nose wheel well to determine if the spring arms are made of aluminum or composite material, and repetitive related investigative/corrective actions if necessary. The original NPRM resulted from reports of cracked and broken aluminum springs. This action revises the original NPRM to include a parts installation paragraph and to provide options for terminating the repetitive actions. We are proposing this supplemental NPRM to detect and correct cracked or broken springs. A cracked or broken spring could separate from the airplane and result in potential hazard to persons or property on the ground, or ingestion into the engine with engine damage and potential shutdown, or damage to the airplane.

DATES: We must receive comments on this supplemental NPRM by November 13, 2009.

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.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

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: Chris Hartman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6432; fax (425) 917–6590.

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–2008–0295; Directorate Identifier 2007–NM–298–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

We issued a notice of proposed rulemaking (NPRM) (the ''original NPRM'') to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes. That original NPRM was published in the **Federal Register** on March 13, 2008 (73 FR 13492). That original NPRM proposed to require an inspection of the two spring arms in the spin brake assemblies in the nose wheel well to determine if the spring arms are made of aluminum or composite material, and repetitive related investigative/corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the seven commenters.

Request To Refer to Revision 1 of the Service Bulletin

Boeing and Air Transport Association (ATA), on behalf of its member American Airlines (AAL), request that we include Revision 1 of Boeing Special Attention Service Bulletin 757–32–0176, dated October 16, 2008, in the AD. (We referred to the original issue, Boeing Special Attention Service Bulletin 757–32–0176, dated September 10, 2007, as the appropriate source of service information in the original NPRM.) Boeing points out that the