

# Proposed Rules

Federal Register

Vol. 71, No. 216

Wednesday, November 8, 2006

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 46

[Docket Number FV05-373]

RIN 0581-AC53

#### Amendments to Regulations Under the Perishable Agricultural Commodities Act (PACA) To Ensure Trust Protection for Produce Sellers When Using Electronic Invoicing or Other Billing Statements

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

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Agriculture (USDA) is proposing to amend the regulations under the Perishable Agricultural Commodities Act (PACA) to ensure that the status of sellers of perishable agricultural commodities as trust creditors is protected when electronic data interchange (EDI) or other forms of electronic commerce are used to invoice buyers. Specifically, the proposed amendments would require a buyer licensed under the PACA or his third party representative to accept the PACA trust notice submitted to it by a seller on a paper, electronic invoice, or other billing statement. In addition, the buyer must allow sufficient data space for the required trust language regardless of the billing medium. Finally, any failure, act or omission inconsistent with this responsibility is unlawful and a violation of the PACA. Comments are being sought from the public, but in particular, from buyers and sellers of fruit and vegetables and vendors/software developers of electronic billing systems.

**DATES:** Written or electronic comments received by January 8, 2007 will be considered prior to issuance of a final rule.

**ADDRESSES:** You may submit written or electronic comments to:

(1) PACA Trust Comments, AMS, F&V Programs, PACA Branch, 1400 Independence Avenue, SW., Room 2095-S, Stop 0242, Washington, DC 20250-0242

(2) Fax: 202-720-8868.

(3) E-mail comments to [Dexter.Thomas@usda.gov](mailto:Dexter.Thomas@usda.gov).

(4) Internet: <http://www.regulations.gov>.

*Instructions:* All comments will become a matter of public record and should be identified as "PACA Trust Comments." Comments will be available for public inspection at the Agricultural Marketing Service at the above address or over the Agency's Web site at: <http://www.ams.usda.gov/paca>. Web site questions can be addressed to the PACA Webmaster, [Dexter.Thomas@usda.gov](mailto:Dexter.Thomas@usda.gov).

#### FOR FURTHER INFORMATION CONTACT:

Karla Whalen, Section Head, Trade Practices Section, or Phyllis Hall, Senior Marketing Specialist, Trade Practices Section, 202-720-6873.

#### SUPPLEMENTARY INFORMATION:

#### Background of PACA and Trust Provisions

The Perishable Agricultural Commodities Act (PACA) establishes a code of fair trading practices in the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent trade practices. The law also provides a forum to adjudicate or mediate commercial disputes. Licensees who violate the PACA may have their license suspended or revoked, and principals of such a licensee are restricted from employment or operating in the produce industry for a period of time.

The PACA also imposes a statutory trust for the benefit of unpaid suppliers or sellers on perishable agricultural commodities received and accepted but not yet paid for, and may encumber products derived from those commodities, and any receivables or proceeds due from the sale of those commodities or products. USDA's Agricultural Marketing Service (AMS) administers and enforces the PACA.

In the case of a business failure or bankruptcy of an entity subject to PACA, the debtor's inventory and receivables (PACA trust assets) are not

property of the estate and are not available for general distribution until the claims of PACA creditors who have preserved their trust rights have been satisfied. Because of the statutory trust provision, PACA trust creditors who have preserved their trust rights with the appropriate written notices, including sellers outside of the United States, have a far greater chance of recovering the money owed to them should an entity subject to PACA go out of business. The PACA trust provisions protect producers and the majority of firms trading in fruits and vegetables as each buyer of perishable agricultural commodities in the marketing chain becomes a seller in its own turn.

In 1995, the PACA was amended to provide that licensed sellers of fresh and frozen fruits and vegetables may provide notice to buyers of their intention to preserve trust benefits by including specific language on invoice and billing documentation. The required language reads: "The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received." (7 U.S.C. 499e(c)(4)).

#### Amendment of PACA Regulations To Allow for Electronic Invoicing

The PACA regulations (7 CFR 46.46(a)(5)) were amended in 1997 to state that electronic transmissions are considered "ordinary and usual billing and invoicing statements" within the meaning of Section 5(c)(4) of the PACA. Under current regulations, unpaid PACA licensed sellers or suppliers of fresh and frozen fruits and vegetables may provide notice to buyers of their intention to preserve their trust rights by including the specified language contained in Section 5(c)(4) of the PACA on their billing or invoice statements, whether paper documentation or electronic transmissions. Alternatively, as provided in the PACA and regulations, sellers (licensed or non-licensed) may satisfy the notice requirement by

sending the buyer a separate detailed notice of their intent to preserve trust benefits within thirty (30) days of payment default. Whichever method of notice is used to preserve trust benefits, in order to claim the benefit of the trust, payment terms may not exceed 30 days from date of acceptance.

Since the amendment to the regulations, a number of produce sellers have voiced concern that their PACA trust rights may not be preserved if: (1) The buyer/buyer's agent either willfully or through oversight does not receive the entire electronic transmission (*i.e.*, electronic invoice); (2) the buyer/buyer's agent does not download the trust information; (3) the buyer/buyer's agent does not opt to receive the information; (4) the buyer/buyer's agent does not buy the data field that allows the inclusion of the trust language; or (5) the EDI service provider does not translate the field that contains the trust language. Additional concerns have been expressed that the alternate method of trust notice (*i.e.*, separate trust notice letter) is not being accepted by some buyers who require electronic invoicing. Others in the industry have expressed concern about being charged a fee by the buyer to accept the notice to preserve their trust benefits with an electronic invoice, a paper invoice, or separate trust notice.

#### **Advanced Notice of Proposed Rulemaking**

AMS published an Advanced Notice of Proposed Rulemaking in the **Federal Register** on January 30, 2006, (71 FR 4831) seeking comments on whether, and if so, how to amend the PACA regulations to address industry concerns regarding electronic invoicing. The Advance Notice of Proposed Rulemaking invited comments on: (1) The types of problems that may need to be addressed by new regulatory language; (2) any technological barriers and solutions; (3) any additional costs likely to be associated with appropriate regulations, and opinions regarding who should bear such costs; (4) whether the Agency should by regulation define electronic invoicing methods that must be made available by licensed buyers, (*e.g.*, creating a separate field for trust notice language in electronic invoices); (5) whether buyers should be required to accept separate notices (*i.e.*, electronic or paper PACA trust) without restriction or charge; and (6) other related issues and suggestions. The comment period ended on March 16, 2006.

#### **Discussion of Comments**

During the comment period, AMS received 65 comments. Sixty-two comments favor amending the regulations to clarify electronic invoicing practices so that sellers have the same protection when using electronic invoicing as that afforded through traditional paper invoices. Two comments suggest creating a blanket trust notice. One comment did not believe that regulatory action was necessary. The major subject areas of these comments are discussed below.

#### **Modifying Regulations Necessary To Preserve Trust Protection**

Of the sixty-two comments in favor of amending the regulations, fifty-one comments were basically identical in form and substance. These comments were submitted by growers/shippers of fresh fruits and vegetables. They encourage AMS to amend the regulations to clarify that shippers have the same statutory trust protections when invoicing electronically as when invoicing using traditional paper invoices. Comments also state that the regulations need to be changed to adapt to evolving industry practices and provide protection to shippers when invoicing electronically. These commentors did not give suggestions on how to modify the regulations.

There has been uncertainty industry-wide about electronic billing and the assurance of statutory trust protection. The 1997 amendment to the PACA regulations serves to accommodate changes in the marketplace as well as advances in technology. However, the industry has continued to express concern about the potential danger that a notice seeking to perfect trust rights may not be effective if the shipper/seller is invoicing electronically. There is strong industry support for changing the regulations to eliminate this perceived risk and to avoid a potential challenge to trust protection in light of recent produce company bankruptcies in the tens of millions of dollars. AMS agrees with the commentors that the regulations should be modified to clarify that shippers are provided the same statutory trust protection whether they invoice electronically or use paper documentation and to ensure that buyers/receivers do not hinder the sellers' claim of trust protection.

#### **Mandatory Acceptance of Trust Language**

Another issue addressed by a number of commentors is whether the buyer must be required to accept, or should be deemed to have accepted the trust

language in its electronic transactions. Comments from fifty-one growers/shippers of fresh fruit and vegetables support modifying the regulations so that it is mandatory and not discretionary for a buyer to accept the trust notifications received from its sellers. Specific comments are detailed below.

One trade association supports modifying the regulations to protect sellers who invoice electronically and to allow coverage under the trust on all electronic transmissions. This commentor further states that it should be mandatory, not discretionary, for the buyer to accept the notice to preserve trust benefits whether received on paper or electronically.

One trade association believes that any new regulation should ensure that the trust protection language included on an electronic invoice be considered as accepted whether or not the customer or a third party service provider elects to receive, relay or download such language and that all of the seller's electronic invoices to its customer shall be subject to trust protection. This commentor believes a new regulation need only establish a mechanism for the seller to notify the buyer of its intent to preserve its trust rights.

Another trade association explains that a seller cannot be sure the trust notice transmits to the buyer when using electronic invoices because some buyers have expressed a desire to avoid including the required language in the electronic billing format. This commentor states that the PACA requires growers' agents to preserve trust benefits but that they are confronted with billing systems that fail to provide assurance of the transmission of the trust notice.

One shipper maintains that its buyers require it to exclusively invoice electronically and will not accept paper invoices. This commentor believes the trust language is being dropped or excluded at the buyer's discretion from the electronic invoice program.

One law firm explains that while current PACA regulations provide that sellers can preserve their trust rights by including the trust language on their electronic invoices, some purchasers are not allowing a field for the trust language in their electronic format. This commentor further explains that a few buyers are not allowing the sellers to send any paper documentation related to the sales and are charging the sellers a fee if paper documents are sent, thus inhibiting the sellers from preserving their trust rights.

Finally, one trade association noted that the intent of Congress when

creating the PACA trust was to protect the sellers of produce.

We agree that the PACA requires any buyer operating subject to the Act to accept the trust notifications received from its seller/supplier whether they be in paper or electronic format. However, the seller must meet the statute's requirements for preserving its trust benefit, including using the specific language required by the statute. If invoicing electronically, the seller must be able to verify that the electronic invoice was sent to the buyer and that it contained the PACA trust notice.

The amended regulations provide assurance to the sellers that they will have the same protection when invoicing electronically as through traditional paper invoices whether or not the buyer accepts the trust notice.

#### **Failure To Accept Trust Notices Is an Unfair Practice**

Another issue raised by a number of commentors is that the buyer's failure to accept the trust language should be considered an unfair trade practice. Some specific comments on this topic follow.

One trade association believes that since electronic billing serves as an ordinary and usual billing method, action to defeat the trust by blocking the transmission of the trust language would be a violation of a buyer's duty.

One trade association asserts that a buyer's attempt to inhibit the seller's effort to preserve PACA rights by creating a billing system that does not accept the mandated language, would be an unfair trade practice.

Another trade association believes that attempts at trust avoidance should be considered failure to maintain the trust or failure to perform other express or implied specifications or duties. Further, this commentor states that actions which attempt to undermine perfection of the trust should be considered a failure to maintain the trust as much as dissolution of trust assets.

We agree that any attempt to preclude the seller from preserving its trust rights is an unfair trade practice and a violation of Section 2(4) of the PACA. The requirements of the PACA trust cannot be lawfully circumvented through the use of a technological change in how a business invoices for the purchase and sale of fruits and vegetables. As one commentor states:

"No technology should impair the trust or change the way buyers and sellers use the trust."

This commentor further states that: "\* \* \* technologies must enable sellers to notify buyers of trust benefits

preservation, and they must do so in such a way that sellers can comply fully, including being able to show that they have filed a notice (either electronically or documentary) to preserve trust rights with the buyers."

#### **Trust Protection When Using a Third Party**

An additional subject addressed in a few comments was the effectiveness of enforcing the trust when either the buyer or the seller uses a third party agent or service provider.

Since all of the information contained on the electronic invoice is not flowing directly from the seller to the buyer when a seller is using a third party vendor, one commentor expressed concern that the buyer could argue that the seller did not preserve its trust rights because the trust language was not sent directly to the buyer. This commentor also asserts that some buyers or their third party vendors may be stripping out the statutory trust language from electronic invoices. Therefore, the commentor argues that when the sellers send the trust preservation notice electronically to the third party vendor, the buyer could potentially argue that the seller did not preserve its trust rights because the buyer did not actually receive the trust language.

When a buyer uses a third party vendor or agent on its behalf to facilitate the electronic invoicing process, the third party vendor, acting as the buyer's agent receives the trust notice on behalf of the purchaser. Trust protection logically flows to and from the principals directing the transactions. The law requires certain actions of the seller to preserve its rights and obligates the buyer to hold all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment has been received. Although buyers may generally hold these trust assets in a floating trust without specific identification, sellers may seek the establishment of a trust account to prevent dissipation of the trust upon a proper showing in a court action brought on the trust. As both buyer and seller often use agents in produce transactions, the proposed amendment to the regulation permits the giving and receiving of the required notice through such third party agents or electronic service providers. Thus, the proposed amendment to the regulation assures that a purchaser utilizing a third party

agent or service provider does not negate the perfection of the trust, because the purchaser itself does not receive the notice. If the purchaser's agent, acting for and on behalf of the purchaser receives the notice, then the purchaser has received the notice.

#### **Trading Partner Agreements**

A few comments suggest that to facilitate the preservation of trust protection through electronic commerce, the regulation should allow for a trading partner agreement to cover all transactions between the parties under the trust.

For instance, one commentor suggests creating a blanket trust notice in a Trading Partner Agreement (TPA). The commentor explains that this type of agreement is signed before parties begin exchanging information electronically and essentially takes care of the language found on various documents (including invoices) and therefore would reduce costs on electronic transactions since the charges are based on the number of characters transmitted. This commentor wants USDA to determine if a TPA can be considered binding under the PACA and applicable to all electronic transactions.

Another commentor suggests that USDA create a TPA drafted specifically to preserve the seller's trust rights. The commentor explains that the content of the TPA should be developed by USDA with no clause in it for renewal. The commentor suggests the regulation be clear that the receiver does not have the right to refuse to enter into a TPA.

This blanket trust notice or Trading Partner Agreement suggestion may not be adopted, however, since the statutory language that creates the PACA trust expressly sets forth the two permitted methods of preserving trust interests by written notice. (See 7 U.S.C. 499e(c)(3)(4).) Either the required language must be on each sales invoice or other billing statement issued by a PACA licensee, or there must be a written notice filed after single or multiple transactions that is timely [within 30 days of the date payment is due in transactions without extended payment terms] to each transaction for all transactions to be protected.

#### **Financial Impact/Costs**

Several commentors point out that protection under the trust is critical to the financial well-being of sellers.

The issue of the cost of trust protection through electronic commerce was addressed by a number of commentors.

One of the commentors believes it is critical that AMS become actively

involved in proposing new regulatory language that provides a secure, predictable and consistent manner by which sellers may preserve their trust rights. This commentator states that it is critically important that businesses have a clear-cut, low-cost method of preserving PACA trust rights in electronic transactions and sees no technological barriers and no increased costs to buyers or sellers since the technology is already in place. This commentator believes that no financial barriers should be placed upon sellers either through regulation or from buyers in order to preserve their PACA trust rights.

Another commentator asserts that PACA must set forth clear and unambiguous rules and regulations to protect the seller. This commentator argues that this clarity will then lower costs. This and other commentators believe that Congress intended the trust to favor sellers over buyers, in effect, imposing costs on buyers to protect sellers.

AMS believes it is unwise for the amended regulation to define for the industry how to manage the cost of their business dealings. Each business and transacting party must make its own decision as to when to enter into a transaction and how best to cover the costs of such a deal.

#### **Suggested Language for Amending the Regulations**

Comments by three trade associations and two distributors offer strong support for modifying and streamlining the regulations for electronic invoicing practices. They advocate keeping the regulations as simple as possible. They suggest almost identical language to amend the regulations at Section 46.46(f)(3). The first is as follows:

“Licensees may choose an alternative method of preserving trust benefits from the requirements described in paragraphs (f)(1) and (2) of this section. Licensees may use their invoice or other billing statement to preserve trust benefits. The alternative method requires that the licensee’s invoice or other billing statement, whether documentary or electronic, contain the following statement at the time of mailing or transmission to the buyer, irrespective of whether or not the buyer downloads, receives, or accepts such statement.”

The other suggestion is as follows:

“Licensees may choose an alternative method of preserving trust benefits from the requirements described in paragraphs (f)(1) and (2) of this section. Licensees may use their invoice or other billing statement to preserve trust

benefits. The alternative method requires that the licensee’s invoice or other billing statement, whether documentary or electronic, contain the following statement at the time of mailing or transmission to the buyer, irrespective of whether or not the buyer provides a field for including such statement or downloads, receives, or accepts such statement.”

Another commentator suggests amending the regulations as follows: “\* \* \* the licensee’s invoice or other billing statement, whether documentary or electronic, contain the following statement at the time of mailing or transmission to the buyer, regardless of whether or not the buyer downloads, receives, or accepts such statement.”

While each of these suggested amendments to the regulations has merit, USDA is suggesting slightly different language as noted in the proposed revisions to follow.

#### **Executive Orders 12866 and 12988**

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

#### **Effects on Small Businesses**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000. There are approximately 15,000 firms licensed under the PACA, many of which could be classified as small entities.

The proposed regulation clarifies how to preserve the trust benefit when using electronic invoicing. The use of electronic invoicing would provide companies an electronic alternative to paper documentation to give notice of intent to preserve trust rights, thereby

reducing the time and expense associated with preserving trust rights under the PACA.

Given the preceding discussion, AMS has made an initial determination that the provisions of this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### **Paperwork Reduction Act**

In accordance with OMB regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are covered by this proposed rule were approved under OMB number 0581-0031 on October 5, 2004, and expire on October 31, 2007.

#### **E-Government Act Compliance**

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### **Proposed Changes**

Under the Act it is the responsibility of the seller to preserve its trust benefits, and we agree that the buyer must accept the trust language if the seller attempts to preserve its trust rights. Based upon full consideration of the comments received during the comment period, the concerns of industry members and AMS about enforceability of trust protection through electronic commerce, changes in the technological nature of produce transactions, as well as the desire to avoid enforcement problems if a produce firm using an electronic billing system goes bankrupt, AMS is proposing to amend the PACA regulations to require buyers or their intermediaries to accept the PACA trust statement submitted by a seller on a paper or electronic invoice or other billing statement. Further, any failure, act or omission which is inconsistent with this responsibility is unlawful and a violation of Section 2 of the PACA.

#### **List of Subjects in 7 CFR Part 46**

Agricultural commodities, Brokers, Investigations, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR part 46 as follows:

#### **PART 46—[AMENDED]**

1. The authority citation for part 46 continues to read as follows:

**Authority:** Sec. 15, 46 Stat. 537; 7 U.S.C. 4990.

2. In § 46.46, paragraph (f)(3) introductory text is revised and new paragraphs (f)(4) and (5) are added to read as follows:

**§ 46.46 Statutory trust.**

\* \* \* \* \*

(f) \* \* \*

(3) Licensees may choose an alternate method of preserving trust benefits from the requirements described in paragraphs (f)(1) and (2) of this section. Licensees may use their invoice or other billing statement as defined in paragraph (a)(5) of this section, whether in documentary or electronic form, to preserve trust benefits. Alternately, the licensee's invoice or other billing statement, given to the buyer, must contain:

\* \* \* \* \*

(4) If the invoice or other billing statement is in electronic form, the licensee has met its requirement of giving the buyer notice of intent to preserve trust benefits on the face of the invoice or other billing statement if the electronic invoice or other billing statement containing the statement set forth in paragraph (f)(3)(i) is sent to the buyer and the electronic transmission can be verified. The licensee will be deemed to have given notice to the buyer of its intent to preserve trust benefits if the licensee can verify that the electronic invoice or other billing statement was sent to a third party electronic transaction vendor designated by the buyer. The licensee will have met the requirement of giving the buyer written notice of intent to preserve trust benefits using electronic means if it can verify that the electronic data invoice or other billing statement was transmitted to the buyer, or its designated electronic transaction vendor, irrespective of whether or not the buyer or third party vendor downloads or accepts the trust statement.

(5) If a buyer conducts its transactions in perishable agricultural commodities using an electronic system, the buyer or its third party electronic vendor must allow sufficient space for the seller to include the required trust statement of intent to preserve trust benefits in the buyer's electronic invoices or other billing statement forms. A buyer or its designated third party electronic vendor must accept a seller's notice of intent to preserve benefits under the trust using the required trust statement, whether in documentary or electronic form, as set forth in paragraphs (d) and (f) of this section. Any act or omission which is inconsistent with this responsibility is

unlawful and in violation of Section 2 of the Act (7 U.S.C. 499b).

Dated: November 3, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E6-18826 Filed 11-7-06; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2005-22039; Directorate Identifier 2005-NE-33-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; Turbomeca S.A. Arrius 2F Turboshift Engines**

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

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

**SUMMARY:** The FAA proposes to revise an existing airworthiness directive (AD) for Turbomeca S.A. Arrius 2F turboshift engines. That AD currently requires replacing certain O-rings on the check valve piston in the lubrication unit, at repetitive intervals. This proposed AD would require the same actions except reduce the applicability from all Turbomeca S.A. Arrius 2F turboshift engines, to Turbomeca S.A. Arrius 2F turboshift engines that have not incorporated modification Tf75. This proposed AD results from Turbomeca S.A. introducing a check valve piston design requiring no O-ring. We are proposing this AD to prevent an uncommanded in-flight shutdown of the engine, which could result in a forced autorotation landing and damage to the helicopter.

**DATES:** We must receive any comments on this proposed AD by January 8, 2007.

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

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Fax:* (202) 493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Turbomeca S.A., 40220 Tarnos, France; telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, for the service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:**

Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7175; fax (781) 238-7199.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-22039; Directorate Identifier 2005-NE-33-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

**Examining the AD Docket**

You may examine the docket that contains the proposal, any comments received and any final disposition in person at the DMS Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647-5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available