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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 42

[Doc. No. AMS-FV-08-0027; FV-05-332]

RIN 0581-AC52

United States Standards for Condition of Food Containers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the regulations governing the United States (U.S.) Standards for Condition of Food Containers. The revisions to existing tables, removal of operating characteristic (OC) curves and updating language in the standards would enable the standards to be applicable to most types of food containers and align the standards to reflect current industry practices.

DATES: *Effective Date:* October 17, 2013.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Food manufacturers are determined to be small businesses in accordance with the Small Business Size Standards by North American Industry Classification Systems (NAICS) codes in Title 13, Code of Federal Regulations (CFR) 13 CFR part 121. These businesses may have fewer than 500, 750, or 1,000 employees depending on their NAICS code.

There are approximately 22,058 establishments identified in the 2007 Economic Census as belonging to the North American Industry Classification System under the classification of "food manufacturing" and any number of these establishments could request their product containers be inspected under the provisions of the U.S. Standards for Condition of Food Containers. Only 402 of these establishments would qualify as small businesses under the definition provided by the Small Business Administration.

Under the final rule, utilization of the U.S. Standards for Condition of Food Containers continues to be voluntary. We have examined the economic implications of this final rule on small entities. Small entities would only incur direct costs when purchasers of their packaged food products stipulate in their procurement documents that the food containers should conform to the requirements of the U.S. Standards for Condition of Food Containers.

Since the standards were last amended in May 1983, innovations in packaging technologies have provided an increasingly wide variety of acceptable new food containers. Accordingly, we believe that the economic impact of this final rule will be minimal because the revisions are necessary in order to provide standards that reflect current industry practices. The changes concerning removal of OC curves and other non-substantive

changes will have no adverse impact on small or large entities.

The revisions made herein enable the standards to be applicable to most types of food containers and align the standards to reflect current industry practices. With regard to alternatives, this action reflects revisions proposed to the standards as a result of the second proposed rule published in the **Federal Register**, January 18, 2012 [77 FR 2481].

This rule will not impose any additional reporting or recordkeeping requirements on either small or large establishments under the Paperwork Reduction Act, (44 U.S.C. chapter 35). The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with the Standards.

AMS is committed to complying with the E-Government Act of 2002 (44 U.S.C. 3601-3606; 3541-3549), 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.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not retroactive. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

The U.S. Standards for Condition of Food Containers (Standards) currently provides sampling procedures and acceptance criteria for the inspection of stationary lots of filled food containers, which includes skip lot sampling and inspection procedures. It also provides on-line sampling and inspection procedures for food containers during production.

Stationary lot sampling is the process of randomly selecting sample units from a lot whose production has been completed. This type of lot is usually stored in a warehouse or in some other storage facility and is offered for inspection.

Skip lot sampling is a special procedure for inspecting stationary lots in which only a fraction of the submitted lots are inspected. Skip lot inspection can only be instituted when a certain number of lots of essentially

the same quality have been consecutively accepted.

To be acceptable under the examination criteria in the standards, lots may contain only a limited number of defects classified as minor, major, or critical. Acceptance criteria are based on sampling plans for different lot sizes and levels of inspection such as normal, reduced, or tightened. Defect tables classify the severity of defects.

On-line sampling and inspection is a procedure in which subgroups of sample units or individual containers are selected randomly from pre-designated portions of production. The acceptability of these portions of production is determined by inspecting, at the time of sampling, the subgroups which represent these portions. For this type of sampling, only portions of a lot, rather than a whole lot, may be rejected. This helps to identify trouble spots in a production cycle quickly, and enables the producer to make timely corrections. This can reduce the corrective action costs and the amount of product destroyed as a result of packaging problems.

These standards were developed for use by Government agencies when requested to certify filled primary containers or shipping cases, or both, for condition. The standards are permissive, and they may be used in their entirety or in part by private parties.

Revision of the Standards includes:

(1) separating Tables I, I-A, II, II-A, III, III-A, and III-B of sampling plans for normal, tightened, and reduced inspection by the type of sampling plan used (single or double), as well as updating the Acceptable Quality Levels (AQLs) for these tables

(2) updating Table IV—Metal Containers, (Rigid and Semi-Rigid), Table VI—Glass Containers, Table VIII—Rigid and Semi-Rigid Containers (Corrugated or Solid Fiberboard, Chipboard, Wood, Paperboard Aseptic Cartons, Polymeric Trays, etc.), Table IX—Flexible Containers (Plastic Bags, Cello, Paper, Textile, Laminated Multi-Layer Pouch, Bag, etc.), and Table XI—Defects of Label, Marking, or Code to incorporate new defects and revise existing defects to reflect new packaging technologies such as aseptic packaging, metal cans with easy open lids, and plastic rings that hold several containers together

(3) adding new defect tables, Table V—Composite Containers (Semi-Rigid Laminated or Multi-Layer Paperboard Body with Metal, Plastic, or Combination of Metal and Plastic Ends and a Safety Seal Inside the Cap), Table VII—Plastic Containers (Rigid and Semi-

Rigid Bottles, Jars, Tubs, Trays, Pails, etc.), and Table XII—Interior Can Defects (a new section 42.114 is added to provide for procedures for evaluating interior container defects)

(4) removing the OC curves

(5) other minor non-substantive changes to clarify the text.

These revisions to existing tables, addition of new tables, removal of OC curves, and updating language in the U.S. Standards for Condition of Food Containers enables the standards to be applicable to most types of food containers and align the standards to reflect current industry practices.

OC curves found in §§ 42.140, 42.141, 42.142, and 42.143 from Subpart E—Miscellaneous, are removed. This final rule reflects the amendatory language removing these provisions that first appeared in the proposed rule published in the November 19, 2009, **Federal Register**. While these curves show the ability of the various sampling plans to distinguish between accepted and rejected lots, it is our experience that the inclusion of these curves is not critical to use of the standards. Furthermore, they are readily available in literature and on the Internet. Also, Standards for sampling plans including OC Curves are currently available in 7 CFR Part 43.

Comments

AMS published two proposed rules in the **Federal Register** in which six comments were received. The first proposed rule was published in the **Federal Register** on November 19, 2009 [74 FR 59920], with a sixty-day comment period which closed on January 19, 2010. Two comments were received. One commenter provided a comment that was determined to be outside the scope of the rule. Therefore, no changes were made based on this comment. The other commenter supported the proposed rule revision and provided statements regarding § 42.112—Defects of Containers. The commenter stated that while Table IV of § 42.112 has defects for composite cans listed as a subset of the metal can defects, composite cans also exhibit defects listed in Table VI—Rigid and Semi-rigid containers. The commenter proposed a separate table be added for composite cans extracting the composite can defects from Table IV and Table VI. Based on this comment, AMS added a new Table V that contained the information for composite can defects from Table IV and Table VI and removed the composite information in Table IV. The proposed rule was then reissued.

The second proposed rule was published in the **Federal Register** on January 18, 2012 [77 FR 2481] and provided a comment period of sixty days which closed on March 19, 2012. Four comments were received. Two commenters provided comments that were determined to be outside the scope of the rule. Therefore, no changes were made based on those comments.

The third commenter supported the revision of the proposed rule with several changes. Comments were received regarding: (1) the new proposed paragraph § 42.114—Procedures for Evaluating Interior Container Defects and Table XII—Interior Container Defects, and (2) the proposed modifications to two defects in Table IV—Metal Containers (Rigid and Semi-rigid). Comments received regarding Procedures for Evaluating Interior Container Defects stated that the last four defects in Table XII were vague and not defined. AMS determined the comment had merit and removed major defect 104 and minor defect 204, and revised major defect 105 and minor defect 205 to provide examples of what “other anomaly(ies)” are. The defects were then renumbered. In subsequent discussions, the commenter requested AMS change “Enamel cracked in metal container material not affecting usability” in minor defect 203, Table XII, to “Enamel breakdown in metal affecting usability” as the terms “cracked” and “breakdown” mean the same thing. AMS determined that this had merit and made the change. The commenter also provided comments on § 42.112—Defects of Containers, Table IV—Rigid and Semi-Rigid Containers. The comment concerned major defect 107 for “Metal pop-top: (b) Missing or incomplete score line:” and minor defect 203 for “Flexible pop-top: (b) Short pull tab.” The commenter stated that sometimes product design standards request a partial score for a metal pop-top or a shortened pull tab for a flexible pop-top. The commenter requested that AMS revise the defect descriptions to specify that these will not be considered defects when they are requested in a product specification. AMS determined the comment had merit and, to account for this exception, added the phrase “(not conforming to a relevant product specification)” to major defect 107 and minor defect 203.

The fourth commenter stated that using “Tetra Pak” is a reference to a company and not the actual type of packaging. The commenter recommended that AMS use one of the specific package trademarks or use the term “Tetra Pak cartons.” AMS determined the comment had merit.

AMS has revised the package identification from “Tetra Pak” to “Paperboard Aseptic Cartons” to accurately identify all packaging made in a similar manner.

Based on the comments received and information gathered, AMS believes that revising these standards will bring the Standards inline to reflect current industry practices.

List of Subjects in 7 CFR Part 42

Food packaging, reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 42 is amended as follows:

PART 42—[Amended]

■ 1. The authority citation for part 42 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

■ 2. Section 42.102 is amended by:

■ a. Removing the definitions “Lot”, “Operating Characteristic Curve (OC Curve)” and “Probability of acceptance”.

■ b. Revising the definitions “Administrator,” “Sample size (n),” and “Stationary lot sampling”

■ c. Adding the definition “Lot or inspection lot” in alphabetical order.

The revisions and addition read as follows:

§ 42.102 Definitions, general.

* * * * *

Administrator. The Administrator of the Agricultural Marketing Service (AMS) of the Department or any other officer or employee of the Agency who is delegated, or who may be delegated the authority to act in the Administrator’s stead.

* * * * *

Lot or inspection lot. A collection of filled food containers of the same size, type, and style. The term shall mean “inspection lot,” i.e., a collection of units of product from which a sample is to be drawn and inspected to determine

conformance with the applicable acceptance criteria. An inspection lot may differ from a collection of units designated as a lot for other purposes (e.g., production lot, shipping lot, etc.).

* * * * *

Sample size (n). The number of sample units included in the sample.

* * * * *

Stationary lot sampling. The process of randomly selecting sample units from a lot whose production has been completed. This type of lot is usually stored in a warehouse or in some other storage facility and is offered in its entirety for inspection.

* * * * *

§ 42.106 [Amended]

■ 3. In § 42.106, paragraph (a)(1), remove the word “attributed” and add in its place the word “attributed”.

■ 4. Revise § 42.109, to read as follows:

§ 42.109 Sampling plans for normal condition of container inspection, Tables I and I-A.

TABLE I—SINGLE SAMPLING PLANS FOR NORMAL CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of Plan	Acceptable quality levels													
			Origin Inspection								Other Than Origin Inspection					
			Sample size	0.25		1.5		6.5		0.25		2.5		10.0		
				Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	
CA	6,000 or less	Single	84	0	1	3	4	9	10	0	1	4	5	13	14	
CB	6,001–12,000	Single	168	1	2	5	6	16	17	1	2	7	8	23	24	
CC	12,001–36,000	Single	315	2	3	8	9	28	29	2	3	13	14	41	42	
CD	Over 36,000	Single	500	3	4	12	13	42	43	3	4	18	19	62	63	
CE .....	.....	Single	800	4	5	18	19	64	65	4	5	27	28	95	96	

Ac = Acceptance number.
Re = Rejection number.

Table I-A--Double Sampling Plans for
Normal Condition of Container Inspection

Code	Lot size --ranges Number of containers in lot	Type of Plan	Sample Size		Acceptable quality levels											
					Origin Inspection						Other Than Origin Inspection					
					0.25		1.5		6.5		0.25		2.5		10.0	
					Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
CA	6,000 or less---	Double-----	1st-----	36	(*)	(*)	0	4	2	7	(*)	(*)	0	4	3	9
			2d-----	60												
			Total-----	96	(*)	(*)	3	4	10	11	(*)	(*)	4	5	15	16
CB	6,001-12,000----	Double-----	1st-----	120	0	2	2	6	10	14	0	2	3	7	14	19
			2d-----	60												
			Total-----	180	1	2	5	6	17	18	1	2	8	9	25	26
CC	12,001-36,000---	Double-----	1st-----	168	0	3	2	7	12	18	0	3	5	10	19	26
			2d-----	180												
			Total-----	348	2	3	9	10	31	32	2	3	14	15	45	46
CD	Over 36,000-----	Double-----	1st-----	228	0	3	3	9	15	24	0	3	5	11	23	34
			2d-----	288												
			Total-----	516	3	4	12	13	43	44	3	4	19	20	64	65

(*) = Reject on one or more defects

■ 5. Revise § 42.110 to read as follows:

§ 42.110 Sampling plans for tightened condition of container inspection; Tables II and II-A.

TABLE II—SINGLE SAMPLING PLANS FOR TIGHTENED CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of Plan	Acceptable quality levels												
			Origin Inspection						Other Than Origin Inspection						
			Sample Size	0.25		1.5		6.5		0.25		2.5		10.0	
				Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
CB	6,000 or less	Single	168	0	1	4	5	11	12	0	1	5	6	16	17
CC	6,001–12,000	Single	315	1	2	6	7	19	20	1	2	8	9	28	29
CD	12,001–36,000	Single	500	2	3	9	10	28	29	2	3	12	13	42	43
CE	Over 36,000	Single	800	3	4	13	14	42	43	3	4	18	19	64	65
CF .....	.....	Single	1,250	4	5	19	20	63	64	4	5	26	27	96	97

Table II-A-Double Sampling Plans for
Tightened Condition of Container Inspection

Code	Lot size ranges -- Number of containers in lot	Type of Plan	Sample Size		Acceptable quality levels											
					Origin Inspection						Other Than Origin Inspection					
					0.25		1.5		6.5		0.25		2.5		10.0	
					Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
CB	6,000 or less-----	Double-- -	1st-----	120	(*)	(*)	2	5	6	10	(*)	(*)	2	6	10	14
			2d-----	60												
			Total-----	180	(*)	(*)	4	5	12	13	(*)	(*)	5	6	17	18
CC	6,001- 12,000-----	Double-- -	1st-----	168	0	2	1	5	7	13	0	2	2	7	12	18
			2d-----	180												
			Total-----	348	1	2	7	8	21	22	1	2	9	10	31	32
CD	12,001- 36,000-----	Double-- -	1st-----	228	0	3	2	7	8	17	0	3	3	9	15	24
			2d-----	288												
			Total-----	516	2	3	9	10	29	30	2	3	12	13	43	44
CE	Over 36,000- -----	Double-- -	1st-----	456	0	4	5	10	21	28	0	4	8	13	32	41
			2d-----	408												
			Total-----	864	3	4	14	15	44	45	3	4	19	20	69	70

(*) = Reject on one or more defects

- 6. Revise § 42.111 to read as follows:

§ 42.111 Sampling plans for reduced condition of container inspection, Tables III and III-A; and limit number for reduced inspection, Table III-B.

TABLE III—SINGLE SAMPLING PLANS FOR REDUCED CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of Plan	Acceptable quality levels												
			Origin inspection								Other Than Origin Inspection				
			Sample Size	0.25		1.5		6.5		0.25		2.5		10.0	
				Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
CAA ...	6,000 or less	Single	29	1	2	1	2	4	5	1	2	2	3	5	6
CA	6,001–36,000	Single	84	1	2	3	4	9	10	1	2	4	5	13	14
CB	Over 36,000	Single	168	1	2	5	6	16	17	1	2	7	8	23	24
CC .....	.....	Single	315	2	3	8	9	28	29	2	3	13	14	41	42

Table III-A--Double Sampling Plans for
Reduced Condition of Container Inspection

Code	Lot size ranges -- Number of containers in lot	Type of Plan	Sample Size		Acceptable quality levels											
					Origin Inspection						Other Than Origin Inspection					
					0.25		1.5		6.5		0.25		2.5		10.0	
					Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
CAA	6,000 or less-----	Double----	1st-----	18	0	2	0	2	1	4	0	2	0	3	2	5
			2d-----	18												
			Total-----	36	1	2	1	2	5	6	1	2	2	3	6	7
CA	6,001-36,000	Double----	1st-----	36	0	2	0	4	2	7	0	2	0	4	3	9
			2d-----	60												
			Total-----	96	1	2	3	4	10	11	1	2	4	5	15	16
CB	Over 36,000-	Double----	1st-----	120	0	2	2	6	10	14	0	2	3	7	14	19
			2d-----	60												
			Total-----	180	1	2	5	6	17	18	1	2	8	9	25	26

TABLE III-B—LIMIT NUMBERS FOR REDUCED INSPECTION

Number of sample units from last 10 lots inspected within 6 months	Acceptable quality level				
	0.25	1.5	2.5	6.5	10.0
320–499	(*)	1	4	14	24
500–799	(*)	3	7	25	40
800–1,249	0	7	14	42	68
1,250–1,999	0	13	24	69	110
2,000–3,149	2	22	40	115	181
3,150–4,999	4	38	67	186	293
5,000–7,999	7	63	110	302	472
8,000–12,499	14	105	181	491	765
12,500–19,999	24	169	290	777	1207

* Denotes that the number of sample units from the last 10 inspection lots is not sufficient for reduced inspection for this AQL. In this instance more than 10 inspection lots may be used for the calculations if; the inspection lots used are the most recent ones in sequence within the last 6 months, they have all been on normal inspection, and none has been rejected on original inspection.

■ 7. Section § 42.112 is revised to read as follows:

§ 42.112 Defects of containers: Tables IV, V, VI, VII, VIII, IX, and X.

TABLE IV—METAL CONTAINERS
[Rigid and semi-rigid]

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified	None permitted		
Closure incomplete, not located correctly or not sealed, crimped, or fitted properly:			
(a) Heat processed primary container	1		
(b) Non-heat processed primary container		101	
(c) Other than primary container			201
Dirty, stained, or smeared container			202
Key opening metal containers (when required):			
(a) Key missing		102	
(b) Key does not fit tab		103	
(c) Tab of opening band insufficient to provide accessibility to key		104	
(d) Improper scoring (band would not be removed in one continuous strip)		105	
Metal pop-top:			
(a) Missing or broken pull tab		106	
(b) Missing or incomplete score line (not conforming to a relevant product specification)		107	
Flexible pop-top:			
(a) Poor seal (wrinkle, entrapped matter, etc.)		108	
(b) Short pull tab (not conforming to a relevant product specification)			203
(c) Missing pull tab		109	
(d) Torn pull tab			204
Open top with plastic overcap (when required):			
(a) Plastic overcap missing		110	
(b) Plastic overcap warped (making opening or reapplication difficult)		111	
Outside tinplate or coating (when required):			
(a) Missing or incomplete			205
(b) Blistered, flaked, sagged, or wrinkled			206
(c) Scratched or scored			207
(d) Fine cracks			208
Rust (rust stain confined to the top or bottom double seam or rust that can be removed with a soft cloth is not scored a defect):			
(a) Rust stain			209
(b) Pitted rust		112	
Wet cans (excluding refrigerated containers)			210
Dent:			
(a) Materially affecting appearance but not usability			211
(b) Materially affecting usability		113	
Buckle:			
(a) Not involving end seam			212
(b) Extending into the end seam		114	
Collapsed container		115	
Paneled side materially affecting appearance but not usability			213
Solder missing when required		116	
Cable cut exposing seam		117	
Improper side seam		118	
Swell, springer, or flipper (not applicable to gas or pressure packed product nor frozen products)	2		

TABLE IV—METAL CONTAINERS—Continued
[Rigid and semi-rigid]

Defects	Categories		
	Critical	Major	Minor
Leaker or blown container	3	.....	.....
Frozen products only:			
(a) Bulging ends $\frac{3}{16}$ -inch to $\frac{1}{4}$ -inch beyond lip .....	.....	.....	214
(b) Bulging ends more than $\frac{1}{4}$ -inch beyond lip .....	.....	119	.....
Metal drums: leaking filling seal (bung) swell ¹	4	120	.....

¹ Defect classification depends on the severity of the defect.

TABLE V—COMPOSITE CONTAINERS
[Fiberboard body with metal lids or metal bottoms, plastic or foil top with cap]

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified	None permitted		
Closure incomplete, not located correctly or not sealed, crimped, or fitted properly	1	.....	.....
Dirty, stained, or smeared container .....	.....	.....	201
Easy open closure:			
(a) Pull tab:			
1. Missing or broken pull tab .....	.....	101	.....
2. Missing or incomplete score line .....	.....	102	.....
(b) Membrane top:			
1. Poor seal (wrinkle, entrapped matter, etc.) .....	.....	103	.....
2. Short pull tab .....	.....	104	.....
3. Missing pull tab .....	.....	105	.....
4. Torn pull tab .....	.....	106	.....
(c) Open top with plastic overcap (when required):			
1. Plastic overcap missing .....	.....	107	.....
2. Plastic overcap warped (making opening or reapplication difficult) .....	.....	108	.....
Outside tinplate or coating on ends (when required):			
(a) Missing or incomplete .....	.....	.....	202
(b) Blistered, flaked, sagged, or wrinkled .....	.....	.....	203
(c) Scratched or scored .....	.....	.....	204
(d) Fine cracks .....	.....	.....	205
Collapsed container .....	.....	109	.....
Paneled side materially affecting appearance but not usability .....	.....	.....	206
Leaker	2	.....	.....
Wet or damp:			
(a) Materially affecting appearance but not usability .....	.....	.....	207
(b) Materially affecting usability .....	.....	110	.....
Crushed or torn area:			
(a) Materially affecting appearance but not usability .....	.....	.....	208
(b) Materially affecting usability .....	.....	111	.....

TABLE VI—GLASS CONTAINERS
[Bottles, Jars]

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified	None permitted		
Closure not sealed, crimped, or fitted properly:			
(a) Heat processed	1	.....	.....
(b) Non-heat processed .....	.....	101	.....
Dirty, stained, or smeared container .....	.....	.....	201
Chip in glass .....	.....	.....	202
Stone (unmelted material) in glass .....	.....	.....	203
Pits in surface of glass .....	.....	.....	204
Sagging surface .....	.....	.....	205
Bead (bubble within glass):			
(a) $\frac{1}{8}$ -inch to $\frac{1}{16}$ -inch in diameter .....	.....	.....	206
(b) Exceeding $\frac{1}{8}$ -inch in diameter .....	.....	102	.....
Checked .....	.....	103	.....
Thin spot in glass .....	.....	104	.....

TABLE VI—GLASS CONTAINERS—Continued
[Bottles, Jars]

Defects	Categories		
	Critical	Major	Minor
Blister (structural defect) .....	.....	105	.....
Bird swing (glass appendage inside container)	2	.....	.....
Broken or leaking container	3	.....	.....
Cap (nonheat processed):			
(a) Cross-threaded .....	.....	.....	207
(b) Loose but not leaking .....	.....	.....	208
(c) Pitted rust .....	.....	106	.....
Cap (heat processed):			
(a) Cross-threaded or loose	4	.....	.....
(b) Pitted rust .....	.....	107	.....
Sealing tape or cello band (when required):			
(a) Improperly placed .....	.....	.....	209
(b) Not covering juncture of cap and glass .....	.....	108	.....
(c) Ends overlap by less than 1/2-inch .....	.....	109	.....
(d) Loose or deteriorating .....	.....	110	.....
Missing or torn outer safety seal .....	.....	111	.....
Inner safety seal—missing, torn, poor seal .....	.....	112	.....

TABLE VII—PLASTIC CONTAINERS
[Rigid and Semi-Rigid, Bottles, Jars, Tubs, Trays, Pails, etc.]

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified	None permitted		
Closure not sealed, crimped, or fitted properly:			
(a) Heat processed	1	.....	.....
(b) Non-heat processed .....	.....	101	.....
Dirty, stained, or smeared container .....	.....	.....	201
Chip in plastic .....	.....	.....	202
Un-melted gels in plastic .....	.....	.....	203
Pits in surface of plastic .....	.....	.....	204
Sagging surface .....	.....	.....	205
Air bubble within plastic:			
(a) 1/8-inch to 1/16-inch in diameter .....	.....	.....	206
(b) Exceeding 1/8-inch in diameter .....	.....	102	.....
Checked .....	.....	103	.....
Thin spot in plastic .....	.....	104	.....
Blister (structural defect) .....	.....	105	.....
Broken or leaking container	2	.....	.....
Cap (non-heat processed):			
(a) Cross-threaded .....	.....	.....	207
(b) Loose but not leaking .....	.....	.....	208
Cap (heat processed), cross-threaded or loose	3	.....	.....
Security seals:			
(a) Closure ring missing .....	.....	106	.....
(b) Missing or torn outer safety seal .....	.....	107	.....
(c) Inner safety seal—missing, torn, or poor seal .....	.....	108	.....
(d) Sealing tape or cello band (when required):			
1. Improperly placed .....	.....	.....	209
2. Not covering juncture of cap and plastic .....	.....	109	.....
3. Ends overlap by less than 1/2-inch .....	.....	110	.....
4. Loose or deteriorating .....	.....	111	.....

TABLE VIII—RIGID AND SEMI-RIGID CONTAINERS—CORRUGATED OR SOLID FIBERBOARD, CHIPBOARD, WOOD, PAPERBOARD ASEPTIC CARTONS, POLYMERIC TRAYS, ETC.
[Excluding metal, glass, and plastic]

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified	None permitted		
Component part missing		101	
Closure not sealed, crimped, or fitted properly:			
(a) Primary container	1		
(b) Other than primary container			201
Dirty, stained, or smeared container			202
Wet or damp (excluding ice packs):			
(a) Materially affecting appearance but not usability			203
(b) Materially affecting usability		102	
Moldy area	2		
Crushed or torn area:			
(a) Materially affecting appearance but not usability			204
(b) Materially affecting usability		103	
Separation of lamination (corrugated fiberboard):			
(a) Materially affecting appearance but not usability			205
(b) Materially affecting usability		104	
Product sifting or leaking		105	
Nails or staples (when required):			
(a) Not as required, insufficient number or improperly positioned			206
(b) Nails or staples protruding		106	
Glue or adhesive (when required); not holding properly, not covering area specified, or not covering sufficient area to hold properly:			
(a) Primary container		107	
(b) Other than primary container			207
Flap:			
(a) Projects beyond edge of container more than 1/4-inch			208
(b) Does not meet properly, allowing space of more than 1/4-inch			209
Sealing tape or strapping (when required):			
(a) Missing		108	
(b) Improperly placed or applied			210
Missing component (straw, etc.)			211
Paperboard Aseptic Cartons:			
(a) Missing re-sealable cap or tab		109	
(b) Inner or outer safety seal—missing, torn, poor seal	3		
Thermostabilized polymeric trays:			
Tray body:			
(a) Swollen container	4		
(b) Tear, crack, hole, abrasion through more than one layer of multi-layer laminate for the tray	5		
(c) Presence of delamination in multi-layered laminate			212
(d) Presence of any permanent deformation, such that deformed area is discolored or roughened in texture			213
Lid material:			
(a) Closure seal not continuous along tray flange surface	6		
(b) Foldover wrinkle in seal area extends into the closure seal such that the closure seal is reduced to less than 1/8-inch	7		
(c) Any impression or design on the seal surfaces which conceals or impairs visual detection of seal defects		110	
(d) Areas of “wave-like” striations or wrinkles along the seal area that spans the entire width of seal			214
(e) Abrasion of lid material:			
1. Within 1/16-inch of food product edge of seal such that barrier layer is exposed	8		
2. Greater than 1/16-inch from food product edge of seal that barrier layer is exposed			215
(f) Presence of entrapped matter within 1/16-inch of the food product edge of seal or entrapped moisture or vapor with 1/16-inch of the food product edge of seal that results in less than 1/16-inch of defect free seal width at the outside edge	9		
(g) Presence of any seal defect or anomaly (for example, entrapped moisture, gases, etc.) within 1/16-inch of food product edge of seal		111	
(h) Closure seal width less than 1/8-inch			216

TABLE IX—FLEXIBLE CONTAINERS

[Plastic, Cellophane, Paper, Textile, Laminated Multi-Layer Pouch, Bag, etc.]

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified	None permitted		
Closure not sealed, crimped, stitched, or fitted properly:			
(a) Heat processed primary container	1		
(b) Non-heat processed primary container		101	
(c) Other than primary container			201
Dirty, stained, or smeared container			202
Unmelted gels in plastic			203
Torn or cut container or abrasion (non-leaker):			
(a) Materially affecting appearance but not usability			204
(b) Materially affecting usability		102	
Moldy area	2		
Individual packages sticking together or to shipping case (tear when separated)		103	
Not fully covering product		104	
Wet or damp (excluding ice packs):			
(a) Materially affecting appearance but not usability			205
(b) Materially affecting usability		105	
Over wrap (when required):			
(a) Missing		106	
(b) Loose, not sealed, or closed			206
(c) Improperly applied			207
Sealing tape, strapping, or adhesives (when required):			
(a) Missing		107	
(b) Improperly placed, applied, torn, or wrinkled			208
Tape over bottom and top closures (when required):			
(a) Not covering stitching		108	
(b) Torn (exposing stitching)		109	
(c) Wrinkled (exposing stitching)		110	
(d) Not adhering to bag:			
1. Exposing stitching		111	
2. Not exposing stitching			209
(e) Improper placement			210
Product sifting or leaking:			
(a) Non-heat processed		112	
(b) Heat processed	3		
Flexible pop-top:			
(a) Poor seal (wrinkle, entrapped matter, etc.) reducing intact seal to less than 1/16-inch	4		
(b) Short pull tab (materially affecting usability)			212
(c) Missing pull tab		113	
(d) Torn pull tab (materially affecting usability)			213
Missing component (straw, etc.)			214
Two part container (poly lined box or bag in box):			
(a) Outer case torn			215
(b) Poly liner:			
1. Missing	5		
2. Improper closure		114	
Missing “zip lock” (re-sealable containers)			216
Loss of vacuum (in vacuum-packed)		115	
Pre-formed containers:			
(a) Dented or crushed area			217
(b) Deformed container			218
Missing re-sealable cap		116	
Inner or outer safety seal—missing, torn, poor seal	6		
Air bubble in plastic		117	
Thermostabilized products (includes but not limited to tubes, pouches, etc.):			
Foldover wrinkle in seal area (thermostabilized pouches):			
(a) Extends through all plies across seal area or reduces seal less than 1/16-inch	7		
(b) Does not extend through all plies and effective seal is 1/16-inch or greater			219
Incomplete seal (thermostabilized pouches)	8		
Non-bonding seal (thermostabilized pouches)	9		
Laminate separation in body of pouch or in seal within 1/16-inch of food product edge:			
(a) If food contact layer is exposed	10		
(b) If food contact surface is exposed after manipulation or laminate separation expands after manipulation		118	
(c) If lamination separation is limited to isolated spots that do not propagate with manipulation or is outer ply separation in seal within 1/16-inch of food product edge of seal ...			220
Flex cracks (cracks in foil layer only)			221
Swollen container	11		
Blister (in seal) reducing intact seal to less than 1/16-inch	12		

TABLE IX—FLEXIBLE CONTAINERS—Continued
 [Plastic, Cellophane, Paper, Textile, Laminated Multi-Layer Pouch, Bag, etc.]

Defects	Categories		
	Critical	Major	Minor
Compressed seal (overheated to bubble or expose inner layer) reducing intact seal to less than 1/16-inch	13	.....	.....
Stringy seal (excessive plastic threads showing at edge of seal area) .....	.....	.....	222
Contaminated seal (entrapped matter) reducing intact seal to less than 1/16-inch	14	.....	.....
Seal creep (product in pouch “creeping” into seal) reducing intact seal to less than 1/16 inch	15	.....	.....
Misaligned or crooked seal reducing intact seal to less than 1/16-inch	16	.....	.....
Seal formed greater than 1-inch from edge of pouch (unclosed edge flaps) .....	.....	.....	223
Waffling (embossing on surface from retort racks; not scorable unless severe) .....	.....	.....	224
Poor or missing tear notch (when required) .....	.....	.....	225

TABLE X—UNITIZING
 [Plastic or other type of casing/unitizing]

Defects	Categories	
	Major	Minor
Not specified method	101	.....
Missing tray (when required)	102	.....
Missing shrink wrap (when required)	103	.....
Loose or improperly applied wrap .....	.....	201
Torn or mutilated .....	.....	202
Off-center wrap (does not overlap both ends) .....	.....	203

■ 8. Section 42.113 is revised to read as follows:

§ 42.113 Defects of label, marking, or code.

TABLE XI—LABEL, MARKING, OR CODE

Defects	Categories	
	Major	Minor
Not specified method	101	.....
Missing (when required)	102	.....
Loose or improperly applied .....	.....	201
Torn or mutilated .....	.....	202
Torn or scratched, obliterating any markings on the label	103	.....
Text illegible or incomplete .....	.....	203
Incorrect	104	.....
In wrong location .....	.....	204

■ 9. Add § 42.114 to subpart B to read as follows:

§ 42.114 Procedures for evaluating interior container defects.

(a) Sections 42.101–42.136 provide procedures for determining lot conformance with the U.S. Standards for Condition of Food Containers. This determination is based on the examination of the external characteristics of the food containers.

(b) As an option, if a user of the inspection service requests to have the interior characteristics of containers examined, and apply these results in the

determination of lot acceptability, the defects listed in Table XII may be used.

(c) The determination of lot acceptability based on internal container defects shall be independent of the determination of lot acceptability for U.S. Standards for Condition of Food Containers. A user of the inspection service may choose to require inspection for internal can defects as well as inspection for U.S. Standards for Condition of Food Containers.

(d) If a user of the inspection service requests an examination for internal container defects in addition to an official USDA/USDC inspection for

product quality and/or U.S. grade, the containers opened by the official inspection service for inspection of product quality and/or U.S. grade will be used for examination of interior container defects. The minimum sample size for evaluation of interior container defects will be 13 containers. As a result, additional containers will be required if the inspection for quality or U.S. grade calls for fewer than 13 containers. Table XIII provides acceptance numbers for internal container defects for selected sample sizes.

TABLE XII—INTERIOR CONTAINER DEFECTS

Defects	Categories	
	Major	Minor
De-tinning in metal container materially affecting usability	101	.....
De-tinning in metal container not materially affecting usability .....	.....	201
Black spots in metal container .....	.....	202
Enamel missing (when required) in metal container	102	.....
Enamel breakdown in metal container materially affecting usability	103	.....
Enamel breakdown in metal container material not affecting usability .....	.....	203
Other defect(s) of the interior of the container (metal, plastic, paper, rigid, etc.) e.g., interior damage, tear, delamination, missing layer, off-odor, interior blisters, etc. that materially affects usability	104	.....
Defect(s) of the interior of the container (metal, plastic, paper, rigid, etc.) e.g., interior damage, tear, delamination, missing layer, off-odor, interior blisters, etc. that materially affects appearance but not usability .....	.....	204

TABLE XIII—ACCEPTANCE NUMBERS FOR INTERNAL CONTAINER DEFECTS

Sample Size (n = number of containers)	Major		Total	
	Interior Defects		Interior Defects	
	Ac	Re	Ac	Re
n—13	0	1	2	3
n—21	1	2	3	4
n—29	1	2	4	5
n—38	2	3	5	6
n—48	2	3	6	7
n—60	2	3	7	8

Dated: September 11, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2013-0119; Directorate Identifier 2011-SW-034-AD; Amendment 39-17541; AD 2013-16-03]

RIN 2120-AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS350 and AS355 helicopters, to require inspecting for a crack in the control lever attachment yokes, and if needed, replacing the tail rotor gearbox (TGB). This AD is prompted by improper casting of TGB casing assemblies, which may lead to cracking. A crack in the control lever attachment yokes could cause a loss of tail rotor

pitch control, and consequently, loss of control of the helicopter.

DATES: This AD is effective October 22, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of October 22, 2013.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641-0000 or (800) 232-0323; fax (972) 641-3775; or at <http://www.eurocopter.com/techpub>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the foreign authority's AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800-647-5527) is U.S. Department of Transportation, Docket Operations Office, M-30, West Building

Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817-222-5110; email robert.grant@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

On February 11, 2013, at 78 FR 9634, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Eurocopter Model AS350 and AS355 helicopters. The NPRM proposed to require inspecting for a crack in the control lever attachment yokes, and if needed, replacing the TGB. The proposed requirements were intended to prevent a crack in the control lever attachment yokes, which could cause a loss of tail rotor pitch control, and consequently, loss of control of the helicopter.

The NPRM was prompted by AD No. 2011-0104, dated May 27, 2011, issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for the Eurocopter Model AS 350 and AS 355 helicopters. EASA advises that cracks were found on some TGB casing