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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 301

[Docket No. 96-016-34]

RIN 0579-AA83

Karnal Bunt; Reclassification of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Karnal bunt regulations by removing the current restricted and surveillance area categories of regulated areas and replacing them with a single classification. As part of this proposed change in the regulations, we would release from regulation most of the areas currently designated as restricted areas for seed; remove the prohibition on planting wheat, durum wheat, and triticale in fields associated with Karnal bunt; and remove the cleaning requirement for vegetables grown in those fields. Removing those areas currently designated as restricted areas for seed from the regulations would greatly reduce the total area in the southwestern United States that is regulated for Karnal bunt, and removing the planting prohibition and the vegetable cleaning requirement would ease restrictions on field owners in the regulated areas. We are also proposing to amend the list of regulated areas to add several fields or areas in three Arizona counties to the list of regulated areas. These proposed additions to the list of regulated areas are necessary due to the detection of bunted kernels in fields in those counties during 1998.

DATES: Consideration will be given only to comments received on or before April 8, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-016-34, Regulatory Analysis and Development, PPD,

APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-016-34. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; telephone (301) 734-8899; fax 301-734-8584; e-mail: Stephen.R.Poe@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. In the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets. The regulations regarding Karnal bunt in the United States are set forth in "Subpart—Karnal Bunt" (7 CFR 301.89-1 through 301.89-14, referred to below as the regulations).

The regulations in § 301.89-3(e) currently provide three classification categories for fields or areas within an area regulated for Karnal bunt. Those categories are:

- *Restricted areas for seed.* A restricted area for seed is a distinct definable area that includes at least one field that has been (1) found during survey to contain a bunted wheat kernel, (2) planted with seed from a lot found to contain a bunted wheat kernel, or (3) found during survey to contain spores consistent with Karnal bunt and determined to be associated with grain at a handling facility containing a bunted wheat kernel.

- *Restricted areas for regulated articles other than seed.* Individual

fields are designated as restricted areas for regulated articles other than seed under the following circumstances: (1) The field was found during survey to contain a bunted wheat kernel, (2) the field was planted with seed from a lot found to contain a bunted wheat kernel, or (3) the field was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel.

- *Surveillance areas.* A surveillance area is a distinct definable area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field found during survey to contain a bunted kernel or because of its association with grain at a handling facility containing a bunted kernel.

For the purposes of the production and movement of wheat, durum wheat, and triticale, the regulatory restrictions that currently apply to each category vary. Wheat, durum wheat, and triticale may not be planted in a restricted area for regulated articles other than seed. Those crops may be grown in a surveillance area and moved out of the regulated area as grain with a certificate if tested and found free from Karnal bunt or with a limited permit if bunted kernels are detected during testing. Commercial lots of wheat, durum wheat, or triticale seed grown in a surveillance area may not be moved out of the regulated area. Finally, wheat, durum wheat, and triticale may be grown as grain or seed in a restricted area for seed; grain grown in a restricted area for seed may be moved from the regulated area without restriction, and seed grown in a restricted area for seed may be moved from the regulated area if it meets certain eligibility criteria and has been tested and treated.

In this document, we are proposing to amend the regulations by simplifying the classification criteria for regulated articles; removing the prohibition on planting wheat, durum wheat, and triticale in fields associated with Karnal bunt; and modifying the descriptions of the regulated areas in Arizona, California, New Mexico, and Texas to reflect the elimination of the restricted area for seed classification and to add new areas of Arizona in which bunted kernels were detected during sampling conducted in 1998. We are also

proposing to remove the requirement for cleaning soil and plant debris from vegetable crops grown in fields associated with Karnal bunt. These proposed changes are discussed below.

Reclassification of Regulated Areas

As discussed above, the current regulations provide for fields and areas to be classified as restricted areas for seed, restricted areas for regulated articles other than seed, and surveillance areas. In this document we are proposing to remove those three categories and replace them with a single classification, "regulated area." The proposed new regulated area classification would be the same as the current surveillance area classification in most respects, both in terms of the areas under regulation and the requirements for the production and movement of regulated articles. In those instances where there are individual fields listed in the regulations and those fields are not surrounded by surveillance areas—this is the case in New Mexico, western Texas (El Paso and Hudspeth Counties), and parts of Arizona (all of Yuma County and limited areas of Maricopa and Pinal Counties)—those individual fields would themselves be designated as regulated areas.

The proposed elimination of the restricted area for seed classification would mean, in almost all cases, that only those areas currently designated as surveillance areas or restricted areas for regulated articles other than seed would remain under regulation. (The exceptions would be found in La Paz, Maricopa, and Pinal Counties, AZ, where the proposed new regulated areas would include some areas currently designated as restricted areas for seed in order to reflect the detection of bunted kernels in new fields during 1998.) We are proposing to eliminate the restricted area for seed classification, along with the testing and treatment requirements that currently apply to commercial seed grown in those areas, because the data we have accumulated during the last 3 years of surveys indicates that Karnal bunt is not present in the restricted areas for seed. Given that apparent freedom from Karnal bunt, we do not believe that it is necessary to continue placing restrictions on the movement of seed from those areas currently designated as restricted areas for seed.

We are proposing to revise § 301.89–3(e) to remove the classification criteria for the three current restricted and surveillance area categories and replace them with criteria for classifying regulated areas. Under these proposed

criteria, a field or area would be classified as a regulated area when:

- It is a field planted with seed from a lot found to contain a bunted wheat kernel; or
- It is a distinct definable area that contains at least one field that was found during survey to contain a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field found during survey to contain a bunted kernel); or
- It is a distinct definable area that contains at least one field that was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field that has been associated with grain at a handling facility containing a bunted kernel).

These proposed criteria combine some aspects of the three sets of criteria currently used to classify restricted and surveillance areas. As under the existing classification criteria, it is the link between a field and bunted kernels that would lead to a field or area being classified as a regulated area. That link is established when: (1) A field has been determined to have been planted with seed from a lot found to contain a bunted wheat kernel, (2) when the field was found during survey to contain a bunted kernel, or (3) when the field was found during survey to contain spores and the grain from that field has been associated with grain at a handling facility found to contain bunted kernels.

In the first instance, it has only been established that a field was planted with seed from a lot found to contain bunted kernels; it has not been established that Karnal bunt is present in the field because no bunted kernels have been found in wheat grown in that field. For that reason, the proposed classification criteria, like the existing classification criteria, do not provide for buffer or surveillance areas to be established around the fields planted with seed from a lot containing bunted kernels.

However, in the latter two instances, it has been determined that Karnal bunt is present in a field or that there is the very high likelihood that Karnal bunt is present in a field. (These are the fields that were found to contain bunted kernels or that were found to contain spores and were associated with grain in a handling facility found to contain

bunted kernels.) Given the high degree of certainty regarding the presence of Karnal bunt in those fields, we believe that there is a higher risk that Karnal bunt might be spread from the fields through natural or artificial means. Therefore, the proposed classification criteria, like the existing classification criteria, provide for the fields to be surrounded by buffer areas—i.e., distinct definable areas—that are sufficient to ensure that the appropriate testing and cleaning measures are applied to regulated articles before they are moved out of the regulated area in order to minimize the risk that they will artificially spread Karnal bunt. As is the case under the current regulations, the boundaries of the distinct definable area would be determined using the criteria in paragraphs (b) through (d) of § 301.89–3, which provide for regulating less than an entire State, the inclusion of noninfected acreage in a regulated area, and the temporary designation of nonregulated areas as regulated areas.

The requirements that would apply to the movement of grain grown in a regulated area would be the same as the requirements that are currently found in § 301.89–6(b) regarding the movement of grain grown in a surveillance area. Specifically, to be eligible for unrestricted movement under a certificate, grain from a field within a regulated area would have to be tested and found free from bunted kernels prior to its movement from the field or before it was commingled with other grain. If bunted kernels were found, the grain would be eligible for movement only under a limited permit issued in accordance with § 301.89–6(c), which requires that the grain be moved to a specified destination for specified handling, utilization, or processing that will destroy the Karnal bunt or mitigate the risk of its spread. The requirements that would apply to the movement of wheat, durum wheat, and triticale grown as seed within a regulated area would also be the same as the requirements that apply to the movement of seed grown in a surveillance area, i.e., only seed used for research or germplasm purposes, and not commercial lots of seed, would be eligible for movement from the regulated area. These requirements have proven adequate to prevent the dissemination of Karnal bunt through the movement of grain and seed grown in a surveillance area, and we believe that they would be similarly effective in preventing the spread of Karnal bunt through the movement of grain and seed grown in a regulated area.

Currently, § 301.89–4 prohibits the planting of wheat, durum wheat, and

triticale in fields that are designated as restricted areas for regulated articles other than seed. As part of our proposed removal of the restricted area for regulated articles other than seed classification, we are also proposing to remove that planting prohibition. We are proposing this change because we believe that the intended use of any wheat, durum wheat, and triticale grown in those currently restricted fields, plus the efficacy of the available Karnal bunt testing methods, would together serve to reduce the risk of grain grown in those fields spreading Karnal bunt outside the regulated areas. First, we recognize that it is the movement of contaminated seed that presents the greatest risk of spreading Karnal bunt. Because of that, all wheat, durum wheat, and triticale grown in a currently restricted field would be prohibited from being used as commercial seed outside the regulated area. As is the case currently for seed grown in a surveillance area, wheat, durum wheat, or triticale grown anywhere in the proposed new regulated area, including those currently restricted fields, could be used for seed outside the regulated area only as research or germplasm seed and only if it was treated in accordance with § 301.89-13(e) prior to its use. These limitations on the use of Karnal bunt host crops as seed mean the vast majority, if not all, of the wheat, durum wheat, and triticale grown in the proposed new regulated area, including those currently restricted fields, would be sold as grain. Second, all wheat, durum wheat, and triticale grown in the currently restricted fields would have to be tested and found free from bunted kernels prior to its movement from the field or before it was commingled with other grain to be eligible for unrestricted movement under a certificate. That required testing, which is currently required for Karnal bunt host crops grown in a surveillance area, has proven to be an effective means of detecting the presence of Karnal bunt. If bunted kernels were found, the grain would be eligible for movement only under a limited permit, which requires that the grain be moved to a specified destination for specified handling, utilization, or processing that will destroy the Karnal bunt or mitigate the risk of its spread. Taken together, we believe that these use limitations, testing requirements, and movement restrictions would be sufficient to prevent the spread of Karnal bunt from the previously restricted fields. We believe our proposed removal of the planting prohibition would allow the owners of those previously restricted

fields to make their own planting decisions while continuing to protect against the spread of Karnal bunt from the regulated areas.

Regulated Areas

We are proposing to amend the list of regulated areas in § 301.89-3(f) to reflect the proposed removal of the restricted and surveillance area classifications and their replacement with a single regulated area classification. As discussed above, this proposed change in the regulations would result in the removal of large areas in Arizona, California, New Mexico, and Texas—those areas currently designated as restricted areas for seed—from the regulations. In Arizona, however, we would add new fields or areas as regulated areas in La Paz, Maricopa, and Pinal Counties as a result of the detection of bunted kernels in new fields during sampling conducted in 1998. The regulated areas would continue to be listed alphabetically by State, with regulated areas and fields within each State being listed by county. Where individual fields are listed, they would be designated by specific field numbers.

Arizona

Under the current regulations, all of La Paz County is designated as a restricted area for seed and four individual fields that had been found to contain bunted kernels are designated as restricted areas for regulated articles other than seed. Two portions of the county, each of which surrounds two of the four listed fields, are designated as surveillance areas.

Under this proposed rule, La Paz County would no longer be designated as a restricted area for seed. In addition, the four currently listed fields that fall within the surveillance areas described in the current regulations would no longer be individually listed in the regulations. Those four fields, along with three new fields in the northern surveillance area that were identified as containing bunted kernels during sampling conducted in 1998, would fall within the proposed new regulated areas in La Paz County, which are equivalent to the surveillance areas in the county described in the current regulations. The southern regulated area would remain the same as the surveillance area described in the current regulations, while the northern regulated area would be somewhat larger than its corresponding surveillance area due to the need to incorporate an appropriate buffer area around the three new fields in which bunted kernels were detected in 1998.

The boundaries of the areas in La Paz County that would be designated as regulated areas are described in § 301.89-3(f) in the rule portion of this document.

Under the current regulations, all of Maricopa County is designated as a restricted area for seed and 83 individual fields that had been found to contain bunted kernels (17 of the 83 fields) or that were determined to have been planted with contaminated seed (the remaining 66 fields) are designated as restricted areas for regulated articles other than seed. Portions of the county surrounding the 17 fields that had been found to contain bunted kernels are designated as surveillance areas.

Under this proposed rule, Maricopa County would no longer be designated as a restricted area for seed. In addition, 53 of the currently listed fields would no longer be individually listed in the regulations. One of those fields (field no. 316131801) would be removed entirely because homes have been built on the land, so it is no longer agricultural acreage. The remaining 52 fields, along with 62 new fields that were identified as containing bunted kernels during sampling conducted in 1998, would fall within the proposed new regulated areas in Maricopa County. The regulated areas in Maricopa County would be roughly equivalent to the currently described surveillance areas in the county, although the proposed areas would be larger than their corresponding surveillance areas due to the need to incorporate appropriate buffer areas around the 62 new fields in which bunted kernels were detected in 1998. The remaining 30 currently listed fields that would not fall within the larger regulated areas would be individually designated as regulated areas under this proposed rule. Descriptions of the boundaries of the areas in Maricopa County that would be designated as regulated areas, along with a list of the 30 fields that would be designated as regulated areas, are found in § 301.89-3(f) in the rule portion of this document.

Under the current regulations, all of Pinal County is designated as a restricted area for seed and 10 individual fields that had been found to either contain bunted kernels (4 of the 10 fields) or were determined to have been planted with contaminated seed (the remaining 6 fields) are designated as restricted areas for regulated articles other than seed. A portion of the county surrounding the four fields that had been found to contain bunted kernels are designated as a surveillance area.

Under this proposed rule, Pinal County would no longer be designated

as a restricted area for seed. In addition, the four currently listed fields that fall within the surveillance area described in the current regulations would no longer be individually listed in the regulations. Those four fields, along with nine new fields that were identified as containing bunted kernels during sampling conducted in 1998, would fall within the proposed new regulated area in Pinal County, which is roughly equivalent to the currently described surveillance area in the county. The remaining 2 currently listed fields (field nos. 308102604 and 308102605), along with 13 new fields that would be added based on their association with a bunted kernel detected in a storage facility in Casa Grande, AZ, would be individually listed as regulated areas under this proposed rule.

Although those 13 fields were associated with a bunted kernel detected in a storage facility, they would be added as regulated areas without a surrounding buffer area. The storage facility in which the bunted kernel was found had been used in 1997 to store Karnal-bunt-positive grain, so the possibility was raised that the kernel was from the 1997 positive lot rather than the 1998 crop, even though the facility had been cleaned and treated with sodium hypochlorite after the 1997 crop was removed. Because the 1997 and 1998 lots were of different durum wheat varieties, we attempted to settle that question by submitting the bunted kernel to the Agricultural Research Service laboratory in Lincoln, NE, to confirm its variety. Although the bunted kernel showed a number of similarities to the 1998 variety, the results of the protein analysis did not allow us to conclusively determine the bunted kernel's variety. Without such a confirmation, and given the fact that other fields in the areas have previously been sampled and found free from Karnal bunt, there is some degree of uncertainty as to the Karnal bunt status of those fields. However, in the absence of negative survey data to the contrary, we cannot exclude the possibility that the bunted kernel may have come from one of the 13 fields. We believe, therefore, that it would be appropriate to designate the 13 fields individually as regulated areas without establishing surrounding buffer areas. This would allow us to address the potential risks associated with those fields by ensuring that Karnal bunt host crops grown in those fields would be tested for bunted kernels before they could be moved from the regulated area.

A description of the boundaries of the area in Pinal County that would be

designated as a regulated area, along with a list of the 20 fields that would be designated as regulated areas, is contained in § 301.89–3(f) in the rule portion of this document.

Under the current regulations, all of Yuma County is designated as a restricted area for seed, and 26 fields that had been identified as having been planted with contaminated seed are listed as restricted areas for regulated articles other than seed. Because there were no fields found to contain bunted wheat kernels in Yuma County—only fields planted with contaminated seed—the current regulations contain no surveillance areas in Yuma County.

Under this proposed rule, Yuma County would no longer be designated as a restricted area for seed, which would leave the individual fields listed in the regulations as the only regulated areas within Yuma County. Although the proposed regulations list 40 fields rather than the 26 currently listed in the regulations, we are not proposing to place any new fields under regulatory restrictions. Rather, the increase is attributable to nine of the fields listed in the current regulations being subdivided by their owners into two or more fields in order to plant other crops. A list of the 40 fields in Yuma County that would be designated as regulated areas is contained in § 301.89–3(f) in the rule portion of this document.

California

Under the current regulations, the Bard-Winterhaven area of Imperial County, CA, is designated as a restricted area for seed. The area received that designation because it abuts Yuma County, AZ, and fell within a distinct definable wheat production area that included fields in Yuma County that were planted with contaminated seed. Because we are proposing to eliminate the restricted area for seed classification, and because the Bard-Winterhaven area did not include any restricted areas for regulated articles other than seed or surveillance areas, we are proposing to remove the Bard-Winterhaven area of Imperial County from the regulations.

The regulations in § 301.89–3(f) also currently list 55 fields in the Palo Verde Valley area of Riverside County, CA, as restricted areas for regulated articles other than seed based on the detection of spores in those fields and the fields' association with bunted kernels found in a storage facility. Based on the restricted status of those fields, surrounding portions of Imperial and Riverside Counties were designated as restricted areas for seed, and portions of those counties in closer proximity to the

55 fields were designated as surveillance areas.

Under this proposed rule, there would no longer be any restricted areas for seed in Imperial and Riverside Counties, and those portions of Imperial and Riverside Counties currently designated as surveillance areas would be redesignated as regulated areas. The proposed new regulated areas in Imperial and Riverside Counties would, however, be somewhat smaller than the current surveillance areas. This is because our Karnal bunt program staff and State cooperators in California have adjusted the boundaries to make them more accurate by removing nonagricultural acreage and areas outside the 3-mile buffer that has been generally used to establish surveillance areas. We would also remove the list of the 55 individual fields in Riverside County from the regulations because those fields, along with four new fields that were identified as containing bunted kernels during sampling conducted in 1998, all fall within the area described in the proposed new regulated area in Riverside County. The boundaries of the proposed regulated areas in Imperial and Riverside Counties are set forth in the description of regulated areas contained in § 301.89–3(f) in the rule portion of this document.

New Mexico

Under the current regulations, there are 106 fields in New Mexico listed as restricted areas for regulated articles other than seed: 39 in Dona Ana County, 2 in Hidalgo County, 31 in Luna County, and 34 in Sierra County. These fields were designated as restricted areas for regulated articles other than seed because they had been identified as having been planted with contaminated seed. A restricted area for seed surrounds the fields in each county. Because there were no fields found to contain bunted wheat kernels in New Mexico—only fields planted with contaminated seed—the current regulations contain no surveillance areas in the State.

Under this proposed rule, those same individual fields that were planted with contaminated seed would be designated as the regulated areas in New Mexico, and there would no longer be a restricted area for seed in New Mexico. Again, because there were no fields found to contain bunted kernels in New Mexico, we do not believe it would be necessary to designate any buffer areas around the fields designated as regulated areas, so those fields would be the only regulated areas within New Mexico. We have, however, modified the numbering convention used to

identify the individual fields in New Mexico in this proposed rule. These proposed new numerical designations, which were made possible as a result of more up-to-date mapping information, would allow us to number the fields in a manner consistent with the system used by our Karnal bunt program staff in Arizona and central Texas. Although the proposed regulations list 118 fields in New Mexico, as opposed to the 106 fields listed in the current regulations, we are not proposing to place any new fields under regulatory restrictions. Rather, the increase is attributable to three large fields in Dona Ana County and one large field in Luna County being subdivided under the new numbering system. The individual fields that would be the regulated areas in New Mexico are listed in the description of regulated areas contained in § 301.89–3(f) in the rule portion of this document.

Texas

The regulations in § 301.89–3(f) currently describe restricted areas for seed in 5 Texas counties (El Paso, Hudspeth, McCulloch, Mills, and San Saba), 42 fields designated as restricted areas for regulated articles other than seed in 3 counties (20 in El Paso, 4 in Hudspeth, and 18 in San Saba), and surveillance areas in 3 counties (McCulloch, Mills, and San Saba).

In El Paso and Hudspeth Counties, the 24 fields currently listed as restricted areas for regulated articles other than seed were identified as having been planted with contaminated seed, and the areas surrounding those fields are designated as restricted areas for seed. Because there were no fields found to contain bunted wheat kernels in El Paso and Hudspeth Counties—only fields planted with contaminated seed—there are no surveillance areas in those two counties.

Under this proposed rule, there would no longer be any restricted areas for seed in El Paso and Hudspeth Counties, which would leave those 24 fields as the only regulated areas within El Paso and Hudspeth Counties. However, as was described above with regard to New Mexico, we have modified the numbering convention used to identify the individual fields in El Paso and Hudspeth Counties in this proposed rule. These proposed new numerical designations, which were made possible as a result of more up-to-date mapping information, would allow us to number the fields in a manner consistent with the system used by our Karnal bunt program staff in Arizona and central Texas. Although the proposed regulations list 25 fields in El Paso and

Hudspeth Counties, as opposed to the 24 fields listed in the current regulations, we are not proposing to place a new field under regulatory restrictions. Rather, the additional entry occurred as a result of one large field in El Paso County being subdivided under the new numbering system. The individual fields that would be the regulated areas in El Paso and Hudspeth Counties are listed in the description of regulated areas contained in § 301.89–3(f) in the rule portion of this document.

In San Saba County, the 18 fields currently listed as restricted areas for regulated articles other than seed were identified as a result of the detection of bunted kernels during the National Karnal Bunt Survey. Based on those detections, surrounding portions of McCulloch and Mills Counties and all of San Saba County were designated as restricted areas for seed, and portions of McCulloch, Mills, and San Saba Counties in closer proximity to the 18 fields were designated as surveillance areas.

Under this proposed rule, Mills County would be entirely removed from the regulations. No fields in Mills County have been linked to Karnal bunt, and the grain grown in the small area of the county that is in the current surveillance area is used for forage and is not moved out of the immediate area. Based on those considerations, we consider Mills County to be a low pest risk area, and we believe that removing it from the regulations would not increase the risk of Karnal bunt spreading to new areas of Texas or the United States.

In addition, there would no longer be any restricted areas for seed in McCulloch and San Saba Counties, and those portions of McCulloch and San Saba Counties that are currently designated as surveillance areas would be redesignated as regulated areas. Those proposed new regulated areas in McCulloch County and the eastern portion of San Saba County would, however, be somewhat smaller than the current surveillance areas. This is because our Karnal bunt program staff and State cooperators in Texas have adjusted the boundaries to make them more accurate by removing nonagricultural acreage and areas outside the 3-mile buffer that has been generally used to establish surveillance areas. We would also remove the list of the 18 individual fields in San Saba County from the regulations because they all fall within the area described in this proposed rule as the regulated area in San Saba County. The boundaries of the proposed new regulated areas in McCulloch and San Saba Counties are

set forth in the description of regulated areas contained in § 301.89–3(f) in the rule portion of this document.

Changes Associated With the Reclassification of Regulated Areas

Paragraph (d) of § 301.89–6 provides the eligibility criteria for the movement of commercial lots of seed grown in a restricted area for seed. Among those criteria is a requirement that the seed be treated in accordance with § 301.89–13(f), which pertains exclusively to the treatment of commercial lots of seed. Because we are proposing to remove the restricted area for seed classification, the eligibility criteria for movement of commercial lots of seed grown in a restricted area for seed, as well as the associated treatment regimen, would no longer be necessary. Therefore, we are proposing to remove § 301.89–6(d) and § 301.89–13(f) from the regulations.

In § 301.89–1, the term *distinct definable area* is defined as “A commercial wheat production area of contiguous fields that is separated from other wheat production areas by desert, mountains, or other nonagricultural terrain as determined by an inspector, or, in the case of restricted areas, as determined by an inspector based on survey results.” Because we are proposing to remove the restricted area for seed classification and the restricted area for regulated articles other than seed classification, the reference to “restricted areas” in that definition is no longer necessary. Therefore, we would amend the definition of *distinct definable area* by removing the words “or, in the case of restricted areas, as determined by an inspector.” We would retain the reference to the use of survey results because, as explained previously, survey results have been used in determining the boundaries of the proposed regulated areas described in this proposed rule.

Paragraph (b) of § 301.89–6 currently states the eligibility criteria for the movement under certificate of grain from a surveillance area. Because those criteria would continue to apply to the movement under certificate of grain grown in a regulated area, and because we have proposed to remove the surveillance area classification, we are proposing to amend § 301.89–6(b) by removing the reference to “a surveillance area” and replacing it with a reference to “a regulated area.”

Cleaning of Vegetable Crops

We are proposing to remove the requirement for the cleaning of soil and plant debris from vegetable crops grown in fields that are restricted areas for regulated articles other than seed. We

are proposing to remove this requirement, which is currently located in § 301.89-12(b), for two reasons. First, as noted previously, some of the proposed new regulated areas in California, parts of Arizona, and central Texas would be distinct definable areas rather than individually listed fields. With those field numbers no longer being listed in the regulations, there would be no distinction made between formerly restricted fields and the other fields in those regulated areas, and thus no clear way to identify those fields from which the vegetable crops would require cleaning. Secondly, we believe, based on our experience in administering the Karnal bunt program, that the intended use of the products (consumption) and normal business practices (cleaning and grading of the crops) are sufficient to mitigate the risk of vegetable crops spreading Karnal bunt to other areas of the United States.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We are proposing to amend the Karnal bunt regulations by removing the current restricted and surveillance area categories of regulated areas and replacing them with a single classification. As part of this proposed change in the regulations, we would release from regulation most of the areas currently designated as restricted areas for seed; remove the prohibition on planting wheat, durum wheat, and triticale in fields associated with Karnal bunt; and remove the cleaning requirement for vegetables grown in those fields. We would also add several fields or areas in three Arizona counties to the list of regulated areas based on the detection of bunted kernels in fields in those counties during 1998.

Our proposed modifications to the way regulated areas are classified would benefit the growers who have fields that are currently designated as restricted areas for regulated articles other than seed and fields that are located in restricted areas for seed lying outside the surveillance areas. Growers in the current surveillance areas would be largely unaffected by the proposed changes. Removing those areas currently designated as restricted areas for seed from the regulations would greatly reduce the total area in the southwestern United States that is regulated for Karnal bunt.

Even though the restricted area for regulated articles other than seed classification would be removed under this proposed rule, those fields currently designated as such would remain under regulation because they would still either be part of a regulated area or would themselves be regulated areas. However, this proposed rule would have the effect of relaxing the restrictions that currently apply to the fields. Growers would have the option of planting wheat, durum wheat, or triticale in the fields, which is an option that is not currently available to them. Wheat, durum wheat, or triticale grown as grain (not seed) in those fields would be eligible for unrestricted movement under a certificate if it were tested and found free from bunted kernels prior to its movement from the field or before it was commingled with other grain. If bunted kernels were found, the grain would still be eligible for movement, but only under a limited permit that requires that the grain be moved to a specified destination for specified handling, utilization, or processing that will destroy the Karnal bunt or mitigate the risk of its spread. These are the same conditions that apply to the movement of grain from the current surveillance areas.

There are about 60 growers currently located in restricted areas for regulated articles other than seed (approximately 18,000 agricultural acres). The number, if any, of these growers who would plant wheat if they had the opportunity to do so is unknown. In deciding on whether to plant wheat rather than another crop, growers would no doubt weigh a variety of factors, including the likelihood of producing Karnal-bunt-positive wheat, the likelihood of receiving compensation for any positive wheat that is produced, and the profitability of the alternative crop (which can be comparable, or nearly comparable, to the profitability of wheat). However, information as to how individual growers might respond to those factors, and thus whether or not they would choose to resume planting wheat, is not available.

Vegetable growers with fields currently designated as restricted areas for regulated articles other than seed would also benefit from the proposed removal of that regulatory category, as it would result in the lifting of the current cleaning requirement that applies to vegetables grown in those fields. The benefit is not likely to be significant for most growers, however, since about 90 percent of the soil is routinely removed from vegetables during harvesting anyway. There are currently about 10 vegetable growers with fields designated

as restricted areas for regulated articles other than seed.

Wheat seed growers with fields in restricted areas for seed lying outside the surveillance areas would also benefit from the proposal to modify the classification of regulated areas, since most would no longer be regulated. In the absence of regulation, they would be able to grow and move commercial wheat seed without restriction. Currently, these growers can move commercial wheat seed outside the regulated area only if it tests negative for Karnal bunt, is chlorine drenched, and is treated with a fungicide. Growers bear the cost of treatment, not testing. The cost of seed treatment varies widely among seed handlers, depending largely on labor and overhead costs. One handler, for example, calculated the total cost of treating 100 lbs. of seed at \$7.10, while another handler calculated that cost at \$3.10. Regardless of the cost, there is reason to believe that most seed handlers would continue the fungicide treatments, even with the rule change in effect, with the costs of those fungicide treatments continuing to be passed along to purchasers of the seed. (At least several handlers routinely treated seed prior to 1996, i.e., before Karnal bunt was detected and restrictions were imposed.) That, plus the likelihood that only a small portion of the acreage in the restricted areas for seed would be planted with seed if the restrictions were lifted, suggest that the benefits of the proposed change would be minimal. We estimate that only about 7 percent of the agricultural acreage in restricted areas for seed is planted with wheat, and of that acreage, only about 10 percent is planted for seed. This disparity in favor of grain over seed is not expected to change in the near term, regardless of any regulatory changes, given the current poor market conditions for seed and the fact that stored seed from previous years remains available. There are approximately 563 wheat growers in restricted areas for seed. The restricted areas for seed currently encompass about 1,958,000 agricultural acres, or 88 percent of the total regulated area of 2,214,000 agricultural acres.

Wheat growers in surveillance areas would be largely unaffected by the proposal, because they would remain regulated and would be subject to the same restrictions on the movement of regulated articles that they are now. There are 149 wheat growers in surveillance areas, which together comprise about 239,000 agricultural acres.

Also, the proposed rule would add certain areas in Arizona to the list of

regulated areas due to the detection of bunted kernels in those areas during sampling conducted in 1998. Because all of these new areas are located in areas currently designated as restricted areas for seed, their proposed designation as regulated areas under this proposed rule is not expected to have a significant effect. The changes that would result from the proposed redesignation would be that commercial lots of wheat seed would no longer be eligible for movement from those areas and grain grown in those areas would have to be tested for bunted kernels before being moved from the regulated area. We do not believe that these changes would have a significant economic impact on growers in the proposed new regulated areas because, as noted above, little commercial seed is actually produced in restricted areas for seed, alternative crops may be planted without restriction, and grain may be grown subject to testing prior to movement from the regulated area.

Small Entity Impact

The Regulatory Flexibility Act requires that agencies consider the economic impact of rule changes on small businesses, organizations, and governmental jurisdictions. Those entities most likely to be affected by this proposed rule are wheat growers located in the restricted areas for seed that would no longer be regulated, vegetable growers who would no longer have to clean their crops before movement, and wheat growers located in areas that would be added to the regulated areas due to the detection of Karnal bunt in 1998.

We estimate that there are approximately 588 wheat growers (324 in Arizona, 21 in California, 200 in New Mexico, and 43 in Texas) located in restricted areas for seed lying outside the surveillance areas that would no longer be regulated. We estimate that there are currently 60 growers of non-wheat crops located in restricted areas for regulated articles other than seed who would no longer be required to clean their crops as a condition of movement. Finally, we estimate that there are seven wheat growers in Arizona who have fields located in the restricted areas for seed that would be added to the list of regulated areas. Most of the wheat growers are assumed to have gross receipts of less than \$0.5 million, the U.S. Small Business Administration's threshold for classifying wheat producers as small entities. Accordingly, the impact of the rule will be mostly on small entities.

Growers currently located in restricted areas for regulated articles

other than seed and those in restricted areas for seed would benefit from the proposal to modify the classification of regulated areas. The proposal to add certain areas in Arizona currently located in restricted areas for seed to the list of regulated areas would have a negative impact on affected growers. However, for the reasons discussed above, neither aspect of the proposed rule is expected to have a significant economic impact on a substantial number of entities, large or small.

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) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) 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 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are proposing to amend 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.89–1 [Amended]

2. In § 301.89–1, the definition of *distinct definable area* would be amended by removing the words “, or,

in the case of restricted areas, as determined by an inspector”.

3. In § 301.89–3, paragraphs (e) and (f) would be revised to read as follows:

§ 301.89–3 Regulated areas.

* * * * *

(e) The Administrator will classify a field or area as a regulated area when:

(1) It is a field planted with seed from a lot found to contain a bunted wheat kernel; or

(2) It is a distinct definable area that contains at least one field that was found during survey to contain a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field found during survey to contain a bunted kernel); or

(3) It is a distinct definable area that contains at least one field that was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field that has been associated with grain at a handling facility containing a bunted kernel).

(f) The following areas or fields are designated as regulated areas (maps of the regulated areas may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, MD 20737–1236):

ARIZONA

La Paz County. Beginning at the point where the Colorado River intersects the north side of sec. 32, T. 8 N., R. 21 W.; then east to the northeast corner of sec. 36, T. 8 N., R. 21 W.; then south to the southeast corner of sec. 1, T. 6 N., R. 21 W.; then west to the southwest corner of sec. 6, T. 6 N., R. 21 W.; then north to the intersection of the Colorado River; then northwest along the Colorado River to the point of beginning; and

Beginning at the northeast corner of sec. 22, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 34, T. 5 N., R. 21 W.; then west to the Colorado River; then north along the Colorado River to the northern side of sec. 21, T. 6 N., R. 22 W.; then east to the point of beginning.

Maricopa County. Beginning at the southeast corner of sec. 33, T. 6 S., R. 5 W.; then west to the southwest corner of sec. 32, T. 6 S., R. 7 W.; then north to the northwest corner of sec. 5, T. 5

S., R. 7 W.; then east to the northeast corner of sec. 4, T. 5 S., R. 5 W.; then south to the point of beginning; and

Beginning at the southeast corner of sec. 25, T. 1 S., R. 1 E. and the intersection of the Maricopa/Pinal County line; west to the southwest corner of sec. 28, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 4, T. 1 N., R. 5 W.; then east to the southwest corner of sec. 31, T. 2 N., R. 2 W.; then north to the northwest corner of sec. 31, T. 4 N., R. 2 W.; then east to the northeast corner of sec. 36, T. 4 N., R. 1 W.; then south to the southeast corner of sec. 36, T. 4 N., R. 1 W.; then east to the northeast corner of sec. 5, T. 3 N., R. 2 E.; then south to the southeast corner of sec. 32, T. 2 N., R. 2 E.; then east to the northeast corner of sec. 6, T. 1 N., R. 3 E.; then south to the southeast corner of sec. 7, T. 1 S., R. 3 E.; then west to the southwest corner of sec. 10, T. 1 S., R. 2 E.; then south to the southeast corner of sec. 28, T. 1 S., R. 2 E.; then west to the intersection of the Maricopa/Pinal county line; then north, west and south along the county line to the point of beginning; and

Beginning at the intersection of Interstate 10 and the Maricopa/Pinal County line; then east and north along the county line to the northeast corner of sec. 1, T. 2 S., R. 7 E.; then west to the southeast corner of sec. 31, T. 1 S., R. 7 E.; then north to the northeast corner of sec. 31, T. 1 N., R. 7 E.; then west to the northwest corner of sec. 31, T. 1 N., R. 6 E.; then north to the northeast corner of sec. 1, T. 2 N., R. 5 E.; then west to the northwest corner of sec. 6, T. 2 N., R. 5 E.; then south to the southwest corner of sec. 31, T. 2 N., R. 5 E.; then west to the northwest corner of sec. 2, T. 1 N., R. 4 E.; then south to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the intersection of Interstate 10; then south and east to the point of beginning; and

The following individual fields in Maricopa County are regulated areas:

301060505
301060506
301060601
301060602
301060603
301060604
304073004
304073005
304073010
304081410
304081413
304081415
304081417
304081505
304081506
304082202
304082302

304082303
304082607
304082703
306013222
306013231
306020404
306020501
306020601
306020623
316131901
316131904
316132302
316132604

Pinal County. Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 6, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 2, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 14, T. 3 S., R. 8 E.; then west to the southeast corner of sec. 14, T. 3 S., R. 6 E.; then south to the southeast corner of sec. 26, T. 4 S., R. 6 E.; then west to the southeast corner of sec. 26, T. 4 S., R. 4 E.; then south to the southeast corner of sec. 22, T. 6 S., R. 4 E.; then west to the southwest corner of sec. 19, T. 6 S., R. 3 E.; then north to the southeast corner of sec. 13, T. 6 S., R. 2 E.; then west to the southwest corner of sec. 16, T. 6 S., R. 2 E.; then north to the northwest corner of sec. 9, T. 4 S., R. 2 E.; then east to the southwest corner of sec. 6, T. 4 S., R. 4 E.; then north to the northwest corner of sec. 6, T. 4 S., R. 4 E.; then east to the northwest corner of sec. 6, T. 4 S., R. 5 E.; then north to the intersection of the Maricopa/Pinal County line; then east and north along the county line to the point of beginning; and

The following individual fields in Pinal County are regulated areas:

308102604
308102605
309021801
309021804
309021812
309031304
309033507
309042544
309042545
309042601
309042607
309042619
309050104
309050109
309050207

Yuma County. The following individual fields in Yuma County are regulated areas:

321010208
321010210
321010211
321010224
321010301
321010302
321011103

321033501
321033502
321033503
321033516
321033517
321033518
321033519
321040405
321040911
321040912
321040915
321040917
321040918
321040921
321040922
321041903
321041904
321041908
321041919
321042903
323030401
323030402
323030403
323030404
323030405
323030406
323030501
323030502
323030512
323030513
323030514
323030515
323030521

California

Imperial County. Beginning at the intersection of the Riverside/ Imperial County line and the California/Arizona State line; then west to the northwest corner of sec. 1, T. 9 S., R. 21 E.; the south to the California/ Arizona State line; then east and north along the State line to the point of beginning.

Riverside County. Beginning at the intersection of the Riverside/ Imperial County line and the California/Arizona State line; then west to the southwest corner of sec. 31, T. 8 S., R. 22 E.; then north to the northwest corner of sec. 30, T. 7 S., R. 22 E.; then north and northeast along the Palo Verde Valley agriculture area to the intersection of the California/Arizona State line; then south along the State line to the point of beginning.

New Mexico

Dona Ana County. The following individual fields in Dona Ana County are regulated areas:

113040501
113040502
113040506
113040507
113040508
113040601
113040602
113040702
113040902

113042601
113042602
113042707
113042708
113043401
113043407
113043503
113043508
113043509
113050201
113050202
113050301
113060701
113060702
113060703
113060801
113060809
113060901
113060902
113070702
113072701
113072702
113072703
113072704
113072705
113072706
113173103
113210401
113210402
113210403
113210406
113210407
113210808
113212103
113212802
113212806
113241601
113242708

Hidalgo County. The following individual fields in Hidalgo County are regulated areas:

123272403
123353001

Luna County. The following individual fields in Luna County are regulated areas:

129011301
129012201
129013003
129013006
129022502
129060806
129060901
129060902
129062001
129062801
129062802
129232801
129232804
129232805
129232806
129292404
129300506
129300608
129301104
129301301
129301401
129301701
129301801

129301806
129302001
129302702
129303302
129440601
129440602
129440701
129440702
129440703
129440708
129440801
129441701

Sierra County. The following individual fields in Sierra County are regulated areas:

151013401
151441201
151441202
151441306
151442201
151442601
151442602
151442603
151442604
151442605
151442606
151442607
151442608
151442609
151442610
151442611
151442612
151442613
151442614
151442701
151443501
151443502
151443503
151443601
151443602
151443603
151443604
151451306
151453001
151453101
151453102
151453103
151453104
151502801

Texas

El Paso County. The following individual fields in El Paso County are regulated areas:

441141301
441142301
441142302
441142303
441142304
441142305
441142306
441142307
441142401
441142402
441142403
441142404
441241301
441241302

441252801
441252803
441252804
441252901
441253201
441253302
441253401

Hudspeth County. The following individual fields in Hudspeth County are regulated areas:

429050701
429050702
429070101
429070102

McCulloch County. Beginning at the McCulloch/San Saba County line and the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the line of longitude -99.13473 W.; then north along the line of longitude -99.13473 W to the line of latitude 31.31004 N.; then east along the line of longitude -99.11427 W.; then north along the line of longitude -99.11427 W to the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the McCulloch/San Saba County line; then south to the point of beginning.

San Saba County. Beginning at the San Saba/Mills County line and the line of longitude -98.5851 W.; then south along the line of longitude -98.5851 W to the line of latitude 31.167959 N.; then west along the line of latitude 31.167959 N. to the line of longitude -98.903233 W.; then north along the line of longitude -98.903233 W. to the line of latitude 31.310819 N.; then east along the line of latitude 31.310819 N. to the San Saba/Mills County line; then south along the San Saba/Mills County line to the point of beginning; and

Beginning at the San Saba/McCulloch County line and the line of latitude 31.283487 N.; then east along the line of longitude -99.063487 W.; then south along the line of longitude -99.063487 W. to the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

4. Section 301.89-4 would be revised to read as follows:

§ 301.89-4 Planting.

Wheat, durum wheat, and triticale may be planted in all fields within a regulated area. All wheat seed, durum wheat seed, and triticale seed that originates within a regulated area must be tested and found free from spores and bunted wheat kernels, then treated with a fungicide in accordance with

§ 301.89-13(d), before it may be planted within a regulated area.

§ 301.89-6 [Amended]

5. Section 301.89-6 would be amended as follows: a. In paragraph (b), the word "surveillance" would be removed and the word "regulated" would be added in its place.

b. Paragraph (d) would be removed and paragraph (e) would be redesignated as paragraph (d).

§ 301.89-12 [Amended]

6. In § 301.89-12, paragraph (b) would be removed and reserved.

§ 301.89-13 [Amended]

7. In § 301.89-13, paragraph (f) would be removed.

Done in Washington, DC, this 3rd day of March 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-5779 Filed 3-8-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-SW-62-AD]

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 206L-4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to BHTC Model 206L-4 helicopters. This proposal would require replacing certain hydraulic relief valves (valves) with airworthy valves. This proposal is prompted by a pilot's report of intermittent hydraulic pressure in the flight controls that was caused by a defective hydraulic relief valve. The actions specified by the proposed AD are intended to prevent intermittent hydraulic pressure to the flight controls and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before May 10, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98-SW-62-AD, 2601 Meacham Blvd., Room 663,

Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463-3036, fax (514) 433-0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mark Flora, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193-0170, telephone (817) 222-5172, fax (817) 222-5783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98-SW-62-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98-SW-62-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on BHTC Model 206L-4 helicopters. Transport Canada advises that a manufacturing defect found on a valve could lead to intermittent loss of hydraulic pressure to the flight controls.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin No. 206L-98-111, dated July 24, 1998, which specifies replacing the valve, part number (P/N) 206-076-036-101, with a better valve, P/N 206-076-036-105. Transport Canada classified this service bulletin as mandatory and issued AD No. CF-98-34, dated September 10, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 206L-4 of the same type design registered in the United States, the proposed AD would require replacing the valve, P/N 206-076-036-101, with an improved valve, P/N 206-076-036-105. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 78 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per helicopter to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$1,380. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$112,320 to replace the valve in the entire fleet.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects