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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 253

[FNS–2009–0006]

RIN 0584–AD95

Food Distribution Program on Indian Reservations: Amendments Related to the Food, Conservation, and Energy Act of 2008

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Food Distribution Program on Indian Reservations (FDPIR) regulations to conform FDPIR policy to the requirements included in the Food, Conservation, and Energy Act of 2008 (the Farm Bill) and the Supplemental Nutrition Assistance Program (SNAP). The provisions of this rulemaking are intended to improve program service to applicants and participants and promote consistency in the eligibility determination processes of FDPIR and SNAP. Specifically, this rule permanently excludes combat pay from being considered as income and eliminates the maximum dollar limit of the dependent care deduction. The rule also excludes from resource consideration household funds held in qualified education savings accounts identified in the Farm Bill and excludes any other education savings accounts for which an exclusion is allowed under SNAP. This rule also clarifies that the current resource exclusion for retirement accounts is restricted to the qualified retirement accounts identified in the Farm Bill, and that a resource exclusion will be allowed for any other retirement account for which an exclusion is allowed under SNAP. Finally, the rule clarifies that the FDPIR

regulations regarding income eligibility refer to the SNAP net monthly income standard, not the SNAP gross monthly income standard.

DATES: *Effective Date:* This rule is effective May 6, 2011.

FOR FURTHER INFORMATION CONTACT:

Laura Castro, Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302, or by telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters

A. Executive Order 12866

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule has been designated non-significant under section 3(f) of Executive Order 12866.

B. Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). It has been certified that this action will not have a significant impact on a substantial number of small entities. While Indian Tribal Organizations (ITOs) and State Agencies that administer FDPIR will be affected by this rulemaking, the economic effect will not be significant.

C. Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of \$100 million or more

in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and Tribal governments or the private sector of \$100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

D. Executive Order 12372

The program addressed in this action is listed in the Catalog of Federal Domestic Assistance under 10.567. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115, June 24, 1983), the donation of foods in such programs is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

E. Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency’s considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

1. Prior Consultation With State Officials

The programs affected by the regulatory proposals in this rule are all Tribal or State-administered, Federally-funded programs. The FNS National Office and Regional Offices have formal and informal discussions with State officials on an ongoing basis regarding program issues relating to the distribution of donated foods. FNS meets annually with the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR), a national group of Tribal and State agencies, to discuss issues relating to FDPIR.

2. Nature of Concerns and the Need To Issue This Rule

This rule is intended to provide consistency between FDPIR and SNAP. The rule was prompted by provisions contained in the Farm Bill, enacted on June 18, 2008. Section 4101 of the Farm Bill permanently excludes combat pay (i.e., additional pay earned because of deployment to or service in a combat zone) from income when determining eligibility for SNAP. Section 4103 removes the maximum limit on the dependent care deduction and Section 4104 excludes from resources any household funds held in qualified tuition program or retirement accounts when determining eligibility for SNAP.

3. Extent to Which We Meet Those Concerns

FNS has considered the impact of this rule on ITOs and State agencies that participate in FDPIR. The overall effect is to improve the administration of FDPIR by simplifying and streamlining the eligibility determination process and improve program service to low-income applicants and participants.

F. Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This final rule will not have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

G. Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this rule will not in any way limit or reduce the ability of participants to receive the benefits of donated foods in food distribution programs on the basis of an individual's or group's race, color, national origin, sex, age, or disability. FNS found no factors that will negatively and disproportionately affect any group of individuals.

H. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR part

1320) requires that OMB approve all collections of information by a Federal agency from the public before they can be implemented. Information collections related to the provisions in this final rule were previously approved under OMB No. 0584-0293.

This rule will affect the reporting and recordkeeping burden for ITOs and State agencies under OMB No. 0584-0293 due to an expected change in number of households participating in FDPIR because of this rule.

Documentation supporting the eligibility of all participating households must be maintained by the ITOs and State agencies.

The approved information collection estimates under OMB No. 0584-0293 are as follows:

Estimated total annual burden:
1,079,172.41.

Estimated annual recordkeeping burden: 746,400.42.

Estimated annual reporting burden:
332,771.98.

Changes resulting from this proposed rule will result in the following changes to OMB No. 0584-0293:

Estimated total annual burden:
1,079,172.92.

Estimated annual recordkeeping burden: 746,400.42.

Estimated annual reporting burden:
332,772.49.

These information collection requirements will not become effective until approved by OMB. Once they have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval.

I. E-Government Act Compliance

FNS is committed to compliance with the E-Government Act of 2002 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.

J. Executive Order 13175

E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal

officials or their designees concerning the affect of this and other rules on tribes or Indian Tribal governments, or whether this rule may preempt Tribal law. In regard to this rule, no adverse comments were offered at those sessions. Further, the policies contained in this rule would not have Tribal implications that preempt Tribal law.

Reports from the consultative sessions will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will offer future opportunities, such as Webinars and teleconferences, for collaborative conversations with Tribal leaders and their representatives concerning ways to improve rules with regard to their affect on Indian country.

II. Background and Discussion of the Proposed Rule

On April 27, 2010, FNS published a proposed rule in the **Federal Register** (75 FR 22027) to amend the regulations for FDPIR at 7 CFR part 253. The rule contained proposed amendments to 7 CFR 253.6 to align FDPIR with the Supplemental Nutrition Assistance Program (SNAP) relative to the requirements set forth in the Food, Conservation, and Energy Act of 2008 (Farm Bill). The proposed changes were intended to improve program service by: (1) Permanently excluding combat pay from income when determining eligibility for FDPIR (Section 4101 of the Farm Bill); (2) eliminating the maximum limit to the dependent care deduction (Section 4103 of the Farm Bill); (3) excluding household funds held in education savings accounts specified in Section 4104 of the Farm Bill and any other education accounts for which a resource exclusion is provided under the SNAP; (4) clarifying that the current FDPIR resource exclusion for retirement accounts is limited to qualified retirement accounts specified in Section 4104 of the Farm Bill and any other retirement accounts for which a resource exclusion is provided under SNAP; and (5) clarifying that the FDPIR regulations regarding income eligibility are referring to the SNAP net monthly income standard, rather than the SNAP gross monthly income standard. A full discussion of the proposed changes is contained in the April 27, 2010, proposed rulemaking.

Comments were solicited through June 28, 2010, on the provisions of the proposed rulemaking. FNS received 235 comment letters on the proposed regulatory changes, not counting four duplicate comment letters received from the same commenters. All of the comment letters are available for review at <http://www.regulations.gov>. Enter

“FNS–2009–0017” in the box under “Search Documents” and click on “Go” to view the comments received. One of the comment letters was received after the comment period expired, but we are considering this comment letter nonetheless.

Three of the comment letters were submitted by elected Tribal officials of ITOs that administer FDPIR. Two comment letters were from Tribal/State FDPIR administrators, and one comment letter was from a Tribal health provider. Five comment letters were submitted by national non-profit/advocacy organizations, and five comment letters were from state non-profit/advocacy organizations. One letter was submitted by a private company, and 218 letters were submitted by private citizens.

Four comment letters addressed the provisions of the proposed rule. All four commenters expressed agreement with the provisions of the proposed rule. One commenter stated: “Aligning FDPIR eligibility requirements and income exclusions to be consistent with those allowed by the SNAP (Food Stamps) will allow a greater number of Tribal people to receive benefits through our program, particularly elders and disabled individuals living on fixed incomes * * *.” That commenter also stated: “It is the Tribe’s opinion that this regulatory change is equitable and corrects the former disparity in eligibility requirements to receive benefits for our most needy community members * * *.”

The comment letters also addressed issues beyond the scope of the proposed rulemaking. Below is a summary of these other issues and the number of commenters that addressed each issue:

1. Most commenters wrote in regards to the FDPIR resource limit or “asset test.” On January 28, 2010, USDA published a final rulemaking in the **Federal Register** (75 FR 4469) that aligned the FDPIR resource limit with SNAP’s standard policy for the resource limit, i.e., \$3,000 for households with at least one elderly/disabled member and \$2,000 for all other households. However, SNAP regulations at 7 CFR 273.2(j)(2)(ii) allow SNAP State agencies the option to expand categorical eligibility (commonly referred to as Broad-Based Categorical Eligibility or BBCE) to certain households, which effectively eliminates an asset test for these households because household assets are not considered in the eligibility determination of households that are categorically eligible. Under BBCE, State agencies may consider households categorically eligible for SNAP if all household members receive means-tested non-cash benefits from a

program that is funded with over 50 percent of Temporary Assistance for Needy Families Program (TANF) or Maintenance of Effort (MOE) money. SNAP also allows State agencies, with FNS approval, to make households categorically eligible if all members receive a non-cash benefit from a program that receives less than 50 percent funding from TANF or MOE sources, as long as the household’s gross income does not exceed 200 percent of the Federal Poverty Guidelines. Non-cash benefits could include such services as employment assistance, childcare, or transportation assistance (i.e., “hard” BBCE); or receipt of an informational brochure or toll-free 1–800 number about other available programs (i.e., “soft” BBCE). As of 2009, 15 SNAP State agencies had implemented “hard” BBCE and 26 SNAP State agencies had implemented “soft” BBCE. Eleven SNAP agencies had not implemented BBCE (http://www.fns.usda.gov/snap/rules/Memo/Support/State_Options/8-State_Options.pdf).

Many of the comment letters received in response to the April 27, 2010, proposed rulemaking supported the alignment of FDPIR and SNAP policy in regard to the asset test and BBCE (226 commenters). Many commenters proposed that the FDPIR programs be allowed to follow the SNAP BBCE policy implemented in the state where the FDPIR program is located (225 commenters). Most of these commenters remarked that families living in states that have adopted BBCE under SNAP should not be subject to an asset test under FDPIR (220 commenters). Eight commenters stated that Tribal members should not be subject to stricter asset standards under FDPIR than SNAP, while two commenters wrote in support of eliminating the asset test in FDPIR.

Many commenters requested that USDA adopt their comments on the FDPIR asset test and BBCE in this final rulemaking (225 commenters). We do not feel it is appropriate to include the BBCE option in this final rulemaking. To do so would circumvent the public comment process since that provision was not included in the proposed rulemaking and made available for public comment along with the other provisions contained in this rulemaking. However, these comments are being considered for future rulemaking.

2. Two commenters supported the alignment of SNAP and FDPIR regulations, but the commenters did not specify which provisions should be aligned.

3. One commenter supported the alignment of FDPIR and SNAP in

regards to the standard deduction. The commenter stated that SNAP allows a standard deduction that is not allowed under FDPIR. In actuality, SNAP and FDPIR use the same standard deductions, which vary by household size. Under SNAP, the standard deductions are applied as income deductions that are subtracted from the household’s gross monthly income as part of the net monthly income test. Under FDPIR, the standard deductions are added to the SNAP net monthly income standards to simplify the income eligibility determination. For example, in fiscal year 2011, the SNAP standard deduction for a four-person household is \$153 and the SNAP net monthly income standard is \$1,838 for that same sized household. Under FDPIR, the \$153 standard deduction is added to the net monthly income standard (i.e., the FDPIR net monthly income standard for a four-person household is \$1,991 (\$1,838 + \$153)).

4. One commenter supported the alignment of FDPIR and SNAP in regards to using gross income to determine eligibility. The commenter remarked that SNAP determines eligibility based on gross income, whereas FDPIR uses net income. In actuality, both SNAP and FDPIR determine eligibility by starting with a household’s gross income. Both SNAP and FDPIR determine eligibility by subtracting allowable income deductions from a household’s gross monthly income to determine the household’s net monthly income, which is then compared to the applicable net monthly income standards, which vary by household size. A household with net monthly income that is higher than the applicable net monthly income standard is ineligible under both SNAP and FDPIR. However, SNAP employs a prescreening test for households without elderly or disabled members prior to calculating the household’s net monthly income. SNAP compares the household’s gross monthly income to the applicable SNAP gross monthly income standard, which is set at 130 percent of the Federal Poverty Guidelines. If the SNAP household’s gross monthly income is higher than the applicable gross income standard, the household is determined ineligible, without conducting the net monthly income calculation. If the SNAP household’s gross monthly income is below the gross income test limit, then the certifier conducts the net monthly income test to determine if the household is eligible based on its net monthly income. FDPIR does not use the gross income test to prescreen

households without elderly or disabled members; only the net income test is used under FDPIR.

5. One commenter remarked on the perceived disparity between FDPIR and SNAP in regards to income eligibility guidelines. The commenter stated that SNAP income eligibility guidelines are higher than those used under FDPIR. Both SNAP and FDPIR use 100 percent of the Federal Poverty Guidelines for the net monthly income standard. As discussed above, SNAP uses 130 percent of the Federal Poverty Guidelines for a prescreening test (*i.e.*, the gross income test) that is applied to all households without elderly or disabled members. However, the SNAP gross income test does not determine eligibility. Households that pass the gross income test are then subject to a net income test, which is the same test used under FDPIR.

6. One commenter recommended that the income standard for all Federal programs be raised to 200 percent of the Federal Poverty Guidelines. FDPIR and SNAP use 100 percent of the Federal Poverty Guidelines as the net monthly income standard.

7. One commenter recommended that all Federal programs adopt a fairer measure of need than the Federal Poverty Guidelines. The commenter suggested the Census Bureau's "Supplemental Poverty Measure" or "Self Sufficiency Standard."

8. One commenter recommended the appropriation of funding to support Section 4211 of the Farm Bill. Section 4211 authorized USDA to purchase bison meat, as well as traditional Native American foods and locally-grown foods, subject to the availability of appropriated funds. While funds have not been specifically appropriated for this purpose, FNS has made a limited purchase of frozen ground bison meat for program recipients in fiscal year 2011.

9. One commenter suggested that an increase in appropriations for FDPIR food purchases to allow for the purchase of bison and other traditional Native American foods would rectify the inequity that resulted when SNAP benefits were increased by 13.6 percent under the American Recovery and Reinvestment Act of 2009 and FDPIR did not receive a corresponding increase.

10. One commenter suggested an increase in the SNAP asset limit. As discussed above, SNAP's standard policy sets the asset limit at \$3,000 for households with at least one elderly/disabled member and \$2,000 for all other households.

11. One commenter advocated for the return of lands to the first Americans.

In the following discussion and regulatory text, the term "State agency," as defined at 7 CFR 253.2, is used to include ITOs authorized to operate FDPIR and the Food Distribution Program for Indian Households in Oklahoma (FDPIHO) in accordance with 7 CFR parts 253 and 254. The term "FDPIR" is used in this final rule to refer collectively to FDPIR and FDPIHO.

A. Excluding Combat Pay From Income

The April 27, 2010, rulemaking proposed an amendment to FDPIR regulations at 7 CFR 253.6(e)(3)(xi) to permanently exclude combat pay from income when determining eligibility for FDPIR. The proposed change was intended to align FDPIR regulations with current FDPIR and SNAP policy. Combat pay is defined as additional payment that is received by or from a member of the United States Armed Forces deployed to a combat zone, if the additional pay is the result of deployment to or service in a combat zone, and was not received immediately prior to serving in a combat zone. Based on the comments received on the proposed rulemaking, no changes have been made to the proposed amendatory language.

This provision was implemented by policy memorandum on July 16, 2008, so this amendment will not affect current policy. It will simply ensure that current policy is codified in the regulations.

B. Amending the Dependent Care Deduction

The April 27, 2010, rule also proposed an amendment to FDPIR regulations 7 CFR 253.6(f)(2) to remove language that imposed a maximum limit on dependent care deductions. This proposed revision was intended to align FDPIR regulations with current FDPIR and SNAP policy. Based on the comments received on the proposed rulemaking, no changes have been made to the proposed amendatory language.

This provision was implemented by policy memorandum on July 16, 2008, so this amendment will not affect current policy. It will simply ensure that current policy is codified in the regulations.

C. Excluding Household Funds Held in Education Savings Accounts From Consideration as a Resource

The April 27, 2010, rulemaking proposed an amendment to FDPIR regulations at 7 CFR 253.6(d)(2) to allow a resource exclusion for the value of funds held in a qualified education

savings program described in section 529 of Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code, and any other education savings program or account for which a resource exclusion is allowed under SNAP. This amendment was intended to ensure consistency in the treatment of these resources in determining FDPIR and SNAP eligibility. Based on the comments received on the proposed rulemaking, no changes have been made to the proposed amendatory language.

D. Clarification Regarding the Resource Exclusion for Qualified Retirement Accounts

FDPIR regulations at 7 CFR 253.6(d)(2) allow the exclusion of pension funds. The April 27, 2010, rulemaking proposed an amendment to FDPIR regulations at 7 CFR 253.6(d)(2) to specify that the FDPIR resource exclusion applies to the value of funds held in retirement accounts described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986; the value of funds held in a Federal Thrift Savings Plan account as described in 5 U.S.C. 8439; and any other retirement program or account for which a resource exclusion is allowed under SNAP. This amendment does not materially change current FDPIR regulations or policy. It simply revises the regulatory language to mirror section 4104 of the Farm Bill. Based on the comments received on the proposed rulemaking, no changes have been made to the proposed amendatory language.

E. Clarifying the Application of SNAP Net Income Standards to FDPIR

The April 27, 2010, rulemaking also proposed an amendment to FDPIR regulations at 7 CFR 253.6(e)(1)(i), to clarify that FDPIR applies the SNAP net monthly income standard, not the gross monthly income standard in the FDPIR income eligibility determination. This amendment is for clarification purposes only and does not change current FDPIR policy, nor does it revise current FDPIR income guidelines or eligibility criteria. Based on the comments received on the proposed rulemaking, no changes have been made to the proposed amendatory language.

List of Subjects in 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and Recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR part 253 is amended as follows:

PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

■ 1. The authority citation for 7 CFR part 253 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2036).

■ 2. In § 253.6:

- a. Revise paragraph (d)(2)(i);
- b. Redesignate paragraphs (d)(2)(ii) through (d)(2)(iv) as (d)(2)(iii) through (d)(2)(v), respectively;
- c. Add new paragraph (d)(2)(ii);
- d. Add new paragraph (d)(2)(vi);
- e. Revise the second sentence of paragraph (e)(1)(i);
- f. Add new paragraph (e)(3)(xi); and
- g. Remove the second sentence of paragraph (f)(2).

The revisions and additions read as follows:

§ 253.6 Eligibility of households.

* * * * *

(d) * * *
(2) * * *

(i) The cash value of life insurance policies and the first \$1,500 of the equity value of one bona fide pre-paid funeral agreement per household member. The equity value of a pre-paid funeral agreement is the value that can be legally converted to cash by the household member. For example, an individual has a \$1,200 pre-paid funeral agreement with a funeral home. The conditions of the agreement allow the household to cancel the agreement and receive a refund of the \$1,200 minus a service fee of \$50. The equity value of the pre-paid funeral agreement is \$1,150.

(ii) The value of funds held in retirement accounts described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986; the value of funds held in a Federal Thrift Savings Plan account as described in 5 U.S.C. 8439; and any other retirement program or account for which a resource exclusion is allowed under the Supplemental Nutrition Assistance Program (SNAP).

* * * * *

(vi) The value of funds held in a qualified education savings program described in section 529 of Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code, and any other education savings program or account

for which a resource exclusion is allowed under SNAP.

* * * * *

(e) * * *

(1) * * *

(i) * * * The income eligibility standards shall be the applicable SNAP net monthly income eligibility standards for the appropriate area, increased by the amount of the applicable SNAP standard deduction for that area.

* * * * *

(3) * * *

(xi) *Combat pay.* Combat pay is defined as additional payment that is received by or from a member of the United States Armed Forces deployed to a combat zone, if the additional pay is the result of deployment to or service in a combat zone, and was not received immediately prior to serving in a combat zone.

* * * * *

Dated: April 1, 2011.

Julia Paradis,

Administrator Food and Nutrition Service.

[FR Doc. 2011–8153 Filed 4–5–11; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0323; Directorate Identifier 2011–SW–005–AD; Amendment 39–16651; AD 2011–08–01]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing emergency airworthiness directive (EAD) for the Bell Helicopter Textron, Inc. (Bell) Model 212 helicopters with a certain main rotor hub inboard strap fitting (fitting) installed. That EAD requires, before further flight, removing certain serial-numbered fittings and replacing them with airworthy fittings. It also requires performing a magnetic particle inspection (MPI) on fittings with certain serial numbers (S/Ns) to inspect for a crack. If a crack is found, the cracked fitting must be replaced with an airworthy fitting, and certain data must be reported to the FAA. This

airworthiness directive (AD) retains the requirements of that EAD and expands the applicability to require performing an MPI for a crack on additional serial-numbered fittings. This AD is prompted by the determination that certain fittings were not manufactured in accordance with the approved manufacturing processes and controls. In total, eight fittings have been found that have cracks. We are issuing this AD to prevent failure of a fitting, loss of a main rotor blade, and subsequent loss of control of the helicopter.

DATES: This AD is effective April 21, 2011.

We must receive any comments on this AD by June 6, 2011.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at <http://www.bellcustomer.com/files/>.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (*phone:* 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aerospace Engineer, Rotorcraft Directorate, Rotorcraft Certification Office, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, *phone:* (817) 222–5170; *fax:* (817) 222–5783; *e-mail:* mike.kohner@faa.gov.

SUPPLEMENTARY INFORMATION: