

# Proposed Rules

Federal Register

Vol. 70, No. 249

Thursday, December 29, 2005

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 319

[Docket No. 05–068–1]

#### Importation of Peppers From the Republic of Korea

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the fruits and vegetables regulations to allow the importation into the continental United States of peppers from the Republic of Korea under certain conditions. As a condition of entry, the peppers would have to be grown in approved insect-proof, pest-free greenhouses and packed in pest-exclusionary packinghouses. In addition, the peppers would have to be safeguarded against pest infestation during their movement from the production site to the packinghouse and from the packinghouse to the continental United States. This action would allow for the importation of peppers from the Republic of Korea into the continental United States while continuing to provide protection against the introduction of quarantine pests.

**DATES:** We will consider all comments that we receive on or before February 27, 2006.

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the “Search for Open Regulations” box, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click on “Submit.” In the Docket ID column, select APHIS–2005–0112 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can

be viewed using the “Advanced Search” function in Regulations.gov.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–068–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–068–1.

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

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Alex Belano, Import Specialist, Commodity Import Analysis and Operations, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–8758.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56 through 319.56–8, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The National Plant Quarantine Service (NPQS) of the Republic of Korea (South Korea) has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow peppers from South Korea to be imported into the continental United States. As part of our evaluation of that request, we have prepared a pest risk assessment (PRA) and a risk management document. Copies of the PRA and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the

Regulations.gov Web site (see **ADDRESSES** above for instruction for accessing Regulations.gov).

The PRA, titled “Importation of Fresh Paprika Pepper Fruit (*Capsicum annuum* L. var. *annuum*) from the Republic of Korea into the Continental United States” (August 2005), evaluates the risks associated with the importation of peppers into the continental United States from South Korea. The PRA and supporting documents identified nine<sup>1</sup> pests of quarantine significance present in South Korea that could be introduced into the United States via peppers:

- The moths *Agrotis segetum* (Lepidoptera: Noctuidae), *Helicoverpa armigera* (Lepidoptera: Noctuidae), *Helicoverpa assulta* (Lepidoptera: Noctuidae), *Mamestra brassicae* (Lepidoptera: Noctuidae), *Ostrinia furnacalis* (Lepidoptera: Pyralidae), and *Spodoptera litura* (Lepidoptera: Noctuidae) feed on a wide range of host plants and occupy a large climate range. While these pests can be internal feeders on peppers, visible feeding signs such as holes, insect droppings, or other feeding damage may be detected by visual inspection. The relatively large size of all of these pests would also allow visual detection during at least some stages of their development.

- The fungus *Monilinia fructigena* (Helotiales: Sclerotiniaceae) is a pathogen of numerous hosts present over most of the United States. The fungus may be spread by insects, or spores may be disseminated by the wind. Although asymptomatic fruit may harbor latent infections, this usually only occurs in arid climates. In more humid climates, such as that in South Korea, the fungus typically causes a rapidly spreading, firm, brown decay, which may be easily detected during visual inspection.

- The thrips *Scirtothrips dorsalis* (Thysanoptera: Thripidae) and *Thrips palmi* (Thysanoptera: Thripidae) feed on a variety of host plants that occur in

<sup>1</sup> Although *Ralstonia solanacearum* race 3, which is considered synonymous with *Ralstonia solanacearum* race 3 biovar 2 (R3B2), was evaluated in the PRA as a pest of quarantine significance, we believe there is a low likelihood of the pathogen becoming introduced into the United States through the importation of peppers from South Korea. Given the large volumes of peppers already imported into the United States from countries where R3B2 is present without establishment of the pathogen, it seems unlikely that peppers for consumption are an effective pathway for introduction of R3B2.

most of the warmer parts of the United States. Both larvae and adults are external feeders and damage would be likely to be detected externally, but small infestations or hidden stages under calyces may not be likely to be found during visual inspection.

APHIS has determined that measures beyond standard port of entry inspection are required to mitigate the risk posed by these plant pests. The proposed phytosanitary measures include a requirement that the peppers would have to be grown in South Korea in insect-proof, pest-free greenhouses approved by and registered with NPQS. The greenhouses would have to be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double self-closing doors) would have to be covered with 0.6 millimeter screening. The choice of mesh size for greenhouse screens is a compromise between pest exclusion and reduced ventilation. APHIS has concluded that a screen size of 0.6 millimeters, would exclude all but the smallest of the identified pests of concern. Even the smallest pests of concern are at least partially discouraged by the physical barrier of the 0.6 millimeter mesh and the reduced velocity of wind currents upon which they are borne. Reducing mesh size to the 0.2 millimeter mesh size required to completely exclude these smallest pests would severely hamper ventilation within the greenhouse resulting in increased temperature and humidity levels that would in turn favor the development of fungal diseases. APHIS has proposed risk mitigation measures in addition to screening (e.g., periodic growing season inspections) to ensure the appropriate level of phytosanitary protection. The greenhouses would have to be inspected monthly throughout the growing season by NPQS to ensure that relevant phytosanitary procedures are employed to exclude plant pests and diseases, and that the screens are intact. Such phytosanitary procedures are common measures taken by greenhouse facilities to maintain plant health. These procedures may include, for example, removing weeds, maintaining adequate ventilation, and ensuring that surfaces are free of plant and other debris.

We would require that the peppers be packed within 24 hours of harvest in a pest exclusionary packinghouse. During the time the packinghouse is in use for exporting peppers to the continental United States, the packinghouse could accept peppers only from registered approved production sites. The peppers would have to be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit from the

production site to the packinghouse and while awaiting packing. The peppers would have to be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the continental United States. These safeguards would have to remain intact until the arrival of the peppers in the United States or the shipment would not be allowed to enter the United States.

The commodity imports would be restricted to commercial shipments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial shipments, as defined in § 319.56-1, are shipments of fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Identification of a particular shipment as commercial is based on a variety of indicators, including, but not limited to, the quantity of produce, the type of packaging, identification of a grower or packinghouse on the packaging, and documents consigning the shipment to a wholesaler or retailer.

The proposed phytosanitary measures also include a requirement that each shipment of peppers would have to be accompanied by a phytosanitary certificate of inspection issued by NPQS and bearing an additional declaration that reads "These peppers were grown in greenhouses in accordance with the conditions in 7 CFR 319.56-200 and were inspected and found free from *Agrotis segetum*, *Helicoverpa armigera*, *Helicoverpa assulta*, *Mamestra brassicae*, *Monilinia fructigena*, *Ostrinia furnacalis*, *Scirtothrips dorsalis*, *Spodoptera litura*, and *Thrips palmi*." These mitigations are discussed in greater detail in the risk management document cited previously.

Under § 319.56-6, all imported fruits and vegetables, as a condition of entry into the United States, must be inspected; they are also subject to treatment at the port of first arrival if an inspector requires it. Section 319.56-6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated. We believe that the proposed conditions described above, as well as all other applicable requirements in § 319.56-6, would be adequate to prevent the introduction of plant pests into the

continental United States with peppers imported from South Korea.

#### Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities that may incur benefits or costs from the implementation of this proposed rule.

We are proposing to amend the fruits and vegetables regulations to allow the importation into the continental United States of peppers from the Republic of Korea under certain conditions. As a condition of entry, the peppers would have to be grown in approved insect-proof, pest-free greenhouses and packed in pest-exclusionary packinghouses. In addition, the peppers would have to be safeguarded against pest infestation during their movement from the production site to the packinghouse and from the packinghouse to the continental United States. This action would allow for the importation of peppers from the Republic of Korea into the continental United States while continuing to provide protection against the introduction of quarantine pests.

The peppers to be imported into the United States are greenhouse-grown throughout South Korea. Based on information provided by NPQS, we expect that red varieties or cultivars ('Spirit,' 'Special,' 'Jubilee') would comprise 60-70 percent of the South Korean peppers that would be exported to the United States from South Korea. Yellow pepper cultivars or varieties ('Fiesta,' 'Romeca') would comprise 20-25 percent of exports, and orange ('Nassau,' 'Emily,' 'Boogie') pepper cultivars would comprise 5-10 percent of the peppers shipped to the United States. The Netherlands is the seed source for the peppers grown in South Korea.

The harvesting of the peppers would occur between November and July. The pepper fruits ready for export to the

United States would be packed in standard boxes (usually 5 kg/carton package) and stored under low temperature conditions. During distribution, temperatures would be maintained at 8–10 °C. The peppers would then be transported from South Korea by ship, using refrigerated containers, to western parts of the United States, and via air containers to eastern parts of the United States.

South Korea expects to export 250 metric tons of peppers per month, amounting to 3,000,000 kg annually. At 5 kg per carton, that would comprise 600,000 cartons per year, or about 600 40-foot container loads (assuming that each holds 1,000 cartons). This level of imports is small compared to current levels of production and imports into the United States.

In 2004, a volume of 446,006,999 kg of peppers, valued at \$663.6 million, was imported into the United States. These imports included fresh or chilled fruits of the genus *Capsicum* or *Pimenta*. Mexico, Canada, the Netherlands, and Israel were the major exporting countries.

Regarding commercial pepper production in the United States, the National Agricultural Statistics Service (NASS) (2005) reports the production of bell and chile peppers separately. In 2004, the production of bell peppers for fresh market and processing amounted to 16,803,000 cwt<sup>2</sup> (762,171,259 kg), and was valued at \$576,375,000. California and Florida are the major producing States. The production of chile peppers in 2004 was 4,753,000 cwt (215,592,453 kg), valued at \$123,615,000. Chile peppers are defined as all peppers excluding bell peppers, and the estimates include both fresh and dry products. New Mexico and California are the major producing States.

#### Effects on Small Entities

The Regulatory Flexibility Act requires agencies to specifically consider the economic effects of their rules on small entities. The Small Business Administration (SBA) has established size criteria based on the North American Industry Classification System (NAICS) to determine which economic entities meet the definition of a small firm. The proposed rule may affect producers and wholesalers of peppers in the United States.

Pepper producers are classified into two categories: Other Vegetable (except

Potato) and Melon Farming (NAICS 111219) and Food Crops Grown Under Cover (NAICS 11141). The small entity size standard for these producers is \$750,000 or less in annual receipts. According to the 2002 Census of Agriculture, there were 31,550 farms classified under NAICS 111219 in 2002. The total market value of the agricultural products sold from these farms amounted to \$10,159,518,000 with \$10,093,575,000 accruing to sales of crops, and \$65,943,000 to sales of livestock, poultry, and their products. Similarly, there were 1,778 farms classified under NAICS 11141 in 2002. The total value of the agricultural products sold from these farms amounted to \$1,215,760,000, with \$1,214,474,000 accruing to sales of crops and \$1,286,000 to sales of livestock, poultry, and their products.

However, APHIS does not have information on the distribution of these farms by sales value of their products. We also do not have information for pepper producers specifically. Nevertheless, the 2002 Agricultural Census data indicated that the bell peppers harvested for sale in 2002 were harvested from 8,484 farms; and that the harvested areas were smaller than 5 acres on 90 percent of these farms. Though lack of data thus precludes more definitive conclusions regarding the potential economic impacts on small entities, the above data indicate that the majority of pepper farms that may be affected by this proposed rule would likely qualify as small.

Fruit and vegetable wholesalers are classified under NAICS 424480, and those with not more than 100 employees are considered small by SBA standards. There were 5,376 fresh fruit and vegetable merchant wholesalers in the United States in 2002, which employed a total of 110,578 employees. APHIS does not have information on the distribution of the wholesalers by numbers of employees. We also do not have data on the wholesale trade for peppers specifically. However, the above data indicate that the majority of fruit and vegetable wholesalers that may be affected by this rule would likely qualify as small entities.

Thus, APHIS expects that the producers and wholesalers in the United States that may be affected by the importation of peppers from South Korea would predominantly be small entities. Nevertheless, the economic effects are not expected to be significant. It has been estimated that about 3,000 tons of peppers would be imported annually from South Korea. In an economic analysis prepared by APHIS

for a recent proposed rule,<sup>3</sup> it was estimated that annual imports of about 31,040 tons of peppers from the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua would lead to a price decrease of approximately \$0.01 to \$0.02 per pound at the retail level. Since the volume imported from South Korea is expected to be significantly smaller, effects on domestic prices that may result from the importation of peppers from South Korea should be even lower. Thus, the price changes that may result from this level of increase in the supply of peppers are expected to be negligible.

On the other hand, importers and consumers in the United States may benefit from the proposed rule. Importers would have more import opportunities available due to the alternative sources of peppers. Consumers would benefit from an increased availability of the product. Nevertheless, changes of the magnitude presented here are not likely to have large repercussions for either of the categories of entities discussed above. APHIS welcomes information that the public may provide that would allow further assessment of possible economic effects of the proposed rule on small entities.

#### Alternatives

APHIS does not expect there to be any significant economic impact of the proposed rule on small entities. There is therefore no basis for setting forth alternatives that would minimize significant impacts.

Two alternatives to the proposed rule that would not meet stated objectives would be to either not change current regulations regarding the importation of peppers from South Korea or to allow their importation without requiring the proposed risk mitigations.

The first alternative would maintain current safeguards against the entry of exotic pests. However, this option would also mean that both countries would forgo economic benefits expected to be afforded by the proposed trade. Furthermore, APHIS has concluded that the pest risks associated with the importation of peppers from South Korea can be effectively mitigated by the proposed phytosanitary requirements; given that conclusion, it would be contrary to our obligations under international trade agreements to maintain a prohibition on the importation of peppers from South Korea.

<sup>3</sup> See 70 FR 59283–59290, Docket 05–003–1, published October 12, 2005.

<sup>2</sup> “cwt” is an abbreviation for “hundredweight,” the standard unit of production for certain agricultural products. One hundredweight equals 100 pounds.

Allowing the importation of fresh peppers from South Korea under phytosanitary requirements less restrictive than proposed could potentially lead to the introduction of pests not currently found in the United States. This option could result in losses and costs to domestic production and is, thus, not desirable.

We would appreciate any comments on the potential economic effects of allowing the importation into the United States of peppers from South Korea, and on how the proposed rule could be modified to reduce expected costs or burdens for small entities consistent with its objectives.

This proposed rule contains certain reporting and recordkeeping requirements (see "Paperwork Reduction Act" below).

#### Executive Order 12988

This proposed rule would allow peppers to be imported into the continental United States from South Korea. If this proposed rule is adopted, State and local laws and regulations regarding peppers imported under this rule would be preempted while the vegetable is in foreign commerce. Fresh vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with allowing the importation of peppers from the Republic of Korea into the continental United States, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Internet on the Regulations.gov Web site and is

available for public inspection in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule). In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 05–068–1. Please send a copy of your comments to: (1) Docket No. 05–068–1, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation into the continental United States of peppers from the Republic of Korea under certain conditions. As a condition of entry, the peppers would have to be grown in approved insect-proof, pest free greenhouses and packed in pest-exclusionary packinghouses. In addition, the peppers would have to be safeguarded against pest infestation during their movement from the production site to the packinghouse and from the packinghouse to the continental United States. This action would allow for the importation of peppers from the Republic of Korea into the continental United States while continuing to provide protection against the introduction of quarantine pests.

As a result of this proposed rule, greenhouses must be inspected monthly throughout the growing season by NPQS to ensure phytosanitary procedures are employed to exclude plant pests and diseases, and that screens are intact.

Each shipment of peppers must be accompanied by a phytosanitary certificate of inspection issued by NPQS bearing the following additional declaration: "These peppers were grown

in greenhouses in accordance with the conditions in 7 CFR 319.5602oo and were inspected and found free from *Agrotis segetum*, *Helicoverpa armigera*, *Helicoverpa assulta*, *Mamestra brassicae*, *Monilinia fructigena*, *Ostrinia furnacalis*, *Scirtothrips dorsalis*, *Spodoptera litura*, and *Thrips palmi*."

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.5065 hours per response.

*Respondents:* National Plant Quarantine Service and growers.

*Estimated annual number of respondents:* 2.

*Estimated annual number of responses per respondent:* 304.

*Estimated annual number of responses:* 608.

*Estimated total annual burden on respondents:* 308 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information

pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

**Authority:** 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. A new § 319.56-200 would be added to read as follows:

#### § 319.56-200 Administrative instructions; conditions governing the entry of peppers from the Republic of Korea.

Peppers (*Capsicum annuum* L. Var. *annuum*) from the Republic of Korea may be imported into the continental United States only under the following conditions:

(a) The peppers must be grown in the Republic of Korea in insect-proof greenhouses approved by and registered with the National Plant Quarantine Service (NPQS).

(b) The greenhouses must be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double self-closing doors) must be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse.

(c) The greenhouses must be inspected monthly throughout the growing season by NPQS to ensure phytosanitary procedures are employed to exclude plant pests and diseases, and that the screens are intact.

(d) The peppers must be packed within 24 hours of harvest in a pest exclusionary packinghouse. During the time the packinghouse is in use for exporting peppers to the continental United States, the packinghouse can accept peppers only from registered approved production sites. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit from the production site to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the continental United States. These

safeguards must remain intact until the arrival of the peppers in the United States or the shipment will not be allowed to enter the United States.

(e) Each shipment of peppers must be accompanied by a phytosanitary certificate of inspection issued by NPQS bearing the following additional declaration: "These peppers were grown in greenhouses in accordance with the conditions in 7 CFR 319.56-200 and were inspected and found free from *Agrotis segetum*, *Helicoverpa armigera*, *Helicoverpa assulta*, *Mamestra brassicae*, *Monilinia fructigena*, *Ostrinia furnacalis*, *Scirtothrips dorsalis*, *Spodoptera litura*, and *Thrips palmi*."

(f) The peppers must be imported in commercial shipments only.

Done in Washington, DC, this 21st day of December 2005.

**Nick Gutierrez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E5-8028 Filed 12-28-05; 8:45 am]

BILLING CODE 3410-34-P

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98-ANE-72-AD]

RIN 2120-AA64

#### Airworthiness Directives; Honeywell International Inc., (Formerly AlliedSignal, Inc., Formerly Textron Lycoming, Formerly Avco Lycoming) T5311A, T5311B, T5313B, T5317A, T5317A-1, T5317B Series Turboshaft Engines and Lycoming Former Military T53-L-11B, T53-L-11D, T53-L-13B, T53-L-13B/D, and T53-L-703 Series Turboshaft Engines

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

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

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD), AD 98-22-11, for AlliedSignal, Inc. T5317A-1 turboshaft engines. That AD currently requires repetitive engine fuel pump pressure tests of certain fuel control regulator assemblies to determine if both fuel pumps in the fuel control regulator assemblies are producing fuel pressure. That AD also requires replacing the fuel control regulator assembly, if necessary. This proposed AD would require initial and repetitive visual and dimensional inspections of fuel control regulator assembly main and secondary drive

shaft and pump gear splines, installed in certain fuel control regulator assemblies. This proposed AD would also expand the engine applicability, and include certain engines installed on helicopters certified under § 21.25 or 21.27 of the Code of Federal Regulations (14 CFR 21.25 or 14 CFR 21.27). This proposed AD results from several reports of loss of fuel flow from the engine fuel control regulator assembly due to failure of both main and secondary drive shaft and pump gear splines. We are proposing this AD to prevent in-flight engine failure and forced autorotation landing.

**DATES:** We must receive any comments on this proposed AD by February 27, 2006.

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

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-ANE-72-AD, 12 New England Executive Park, Burlington, MA 01803-5299.
- By fax: (781) 238-7055.
- By e-mail: [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov).

Contact Honeywell International Inc., Attn: Data Distribution, M/S 64-3/2101-201, P.O. Box 29003, Phoenix, AZ 85038-9003; telephone: (602) 365-2493; fax:(602) 365-5577, for the service information identified in this proposed AD.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712-4137; telephone: (562) 627-5245, fax: (562) 627-5210.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. 98-ANE-72-AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us