Issued in Renton, Washington, on June 11, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–15208 Filed 6–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–02–AD; Amendment 39–12272; AD 2001–01–52 R1]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; rescission.

SUMMARY: This amendment rescinds an existing airworthiness directive (AD) that applies to Bell Helicopter Textron Canada (BHTC) Model 407 helicopters and currently requires, before further flight, imposing never exceed velocity (Vne) restrictions on the helicopter. The requirements of that AD were intended to prevent tail rotor blades from striking the tailboom, separation of the aft section of the tailboom with the tail rotor gearbox and vertical fin, and subsequent loss of control of the helicopter. That AD was prompted by an accident suspected of being the result of a tail rotor strike caused by high airspeed. Since the issuance of that AD, accident investigation findings have not substantiated that a tail rotor strike caused by high airspeed was the cause of the accident. This amendment rescinds that AD. This amendment is prompted by the FAA's determination that the Vne restrictions and accompanying actions imposed by that AD do not correct an unsafe condition.

EFFECTIVE DATE: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by rescinding AD 2001–01–52, Amendment 39–12100 (66 FR 9031, February 6, 2001), which applies to BHTC Model 407 helicopters, was published in the **Federal Register** on April 12, 2001 (66 FR 18884). AD 2001–01–52 requires, before further flight, reducing the maximum approved Vne to 100 KIAS if an airspeed-actuated pedal stop is not installed or to 110 KIAS if an airspeed-actuated pedal stop is installed; inserting a copy of the AD into the RFM; installing a temporary placard on the flight instrument panel to indicate the reduced Vne limit; and installing a new redline Vne limit at either 100 or 110 KIAS, as specified in the AD, on all airspeed indicators. That AD was prompted by an accident in which a helicopter was destroyed on water impact following an in-flight occurrence at approximately 140 KIAS. One of the possible contributing factors was an in-flight tail rotor strike to the tailboom. As a precautionary measure, pending further investigation into the accident, and after reviewing the AD issued by the certifying authority for the helicopter (Transport Canada), the FAA issued AD 2001–01–52 to reduce the Vne.

Further investigations conducted since the issuance of AD 2001–01–52 did not substantiate that the accident resulted from a tail rotor strike caused by high airspeed. Information provided by BHTC and reviewed by the FAA supports these findings. Transport Canada has issued a superseding AD, CF–2001–01R1, dated April 3, 2001, stating that the Vne restriction is no longer necessary. Transport Canada advises that no data has emerged from the investigation to confirm that the accident was initiated by a tail rotor strike. While the possibility of a tail rotor strike has not been completely discounted as the cause of the accident, a tail rotor strike occurrence while operating within the approved flight envelope has been discounted. The ongoing accident investigation is currently considering other factors.

After reviewing the available data, the FAA has determined that it is appropriate to rescind AD 2001–01–52 to prevent operators from performing an unnecessary action. The Vne restrictions and accompanying actions imposed by that AD do not correct an unsafe condition. The ongoing investigation found no information to indicate that the accident was caused by a tail rotor strike during flight at high airspeed. The cause of the accident precipitating AD 2001–01–52 remains under investigation.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 200 helicopters of U.S. registry are affected by AD 2001–01–52. The actions that are currently required by that AD take approximately 3 work hours per helicopter to manufacture and install each airspeed limitation placard. The average labor rate is $60 per work hour. Required parts cost approximately $10 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $38,000 to install an airspeed limitation placard on all helicopters in the U.S. fleet. However, adopting this rescission eliminates those costs.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12100 (66 FR 9031, February 6, 2001).

AD 2001–01–52 R1 Bell Helicopter Textron Canada: Amendment 39–12272. Docket No. 2001–SW–02–AD. Rescinds AD 2001–01–52, Amendment 39–12100.

Applicability: Model 407 helicopters, certificated in any category.

Issued in Fort Worth, Texas, on June 8, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–15445 Filed 6–19–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–230–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is approving, with exceptions, an amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kentucky is proposing revisions to the Kentucky Revised Statutes (KRS) pertaining to ownership and control, easement of necessity for the limited purpose of abatement of violations, and roads above highwalls. This rule addresses only the easement of necessity provision. The remaining provisions will be addressed in a future rulemaking (KY–225–FOR).

EFFECTIVE DATE: June 20, 2001.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Field Office Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8400. Email: bkovacic@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982 **Federal Register** (47 FR 21404). Subsequent actions concerning the Kentucky program and previous amendments are codified at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Proposed Amendment

By letter dated May 9, 2000 (Administrative Record No. KY–1473), Kentucky submitted a proposed amendment to its approved permanent regulatory program. House Bill (HB) 502 continues in effect the current administrative regulations on ownership and control. HB 599 creates a new section of KRS Chapter 350. HB 792 amends KRS 350.445(3). Only the provisions of HB 599 will be addressed in this rule.

We announced receipt of the proposed amendment in the May 31, 2000, **Federal Register** (65 FR 34625), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 30, 2000.

III. Director's Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised cross-references and paragraph notations to reflect organizational changes that result from this amendment.

House Bill 599. Subsection (1) recognizes an easement of necessity on behalf of the permittee or operator for the limited purpose of abating a violation, with certain conditions. The permittee or operator must have been issued a notice or order directing abatement of the violation on the basis of an imminent danger to health and safety of the public or significant imminent environmental harm. The notice or order must require access to property for which the permittee or operator does not have legal right of entry and the landowner or legal occupant has refused access.

Subsection (2) establishes conditions under which the Cabinet terminates a notice of noncompliance or cessation order for a violation, other than a violation described in Subsection (1), if the party responsible for abatement of the violation has been denied access to the land necessary to allow abatement. Those conditions, in general terms, are: (a) Prior to terminating a notice of noncompliance or cessation order, and within 30 days of a request by a permittee to terminate a violation based on lack of success, the Cabinet shall verify the denial of access and advise the surface owners and legal occupants of the consequences of refusing to allow access to the property; and (b) the Cabinet shall explain the consequences by certified mail and shall make a good faith effort to notify all owners of interest and legal occupants of the consequences of the refusal to allow access.

Subsection (3) prohibits the Cabinet from terminating a notice or order if it determines that the denial of the access has been procured through collusion between the permittee and the landowner who is refusing access. It defines ''collusion'' and provides that any act of collusion will subject the permittee to certain penalties.

Subsection (4) prohibits termination of a notice or order under this section if there is any common ownership and control between the permittee or operator and the landowner or legal occupant. It also prohibits termination where there is any other legal relationship between the permittee or operator and the landowner or legal occupant, except where a court has determined that the legal relationship does not provide for a right of access.

Subsection (5) requires the Cabinet to direct abatement measures to be taken by the permittee to prevent damage to lands for which access has not been denied.

Subsection (6) provides that termination of a notice or order under this Section shall not affect the assessment of a civil penalty for the violation, and provides that nothing in this Section affects a person's right for damages or injunctive relief.

The Federal regulations at 30 CFR 843.11(f) and 843.12(e) specify, respectively, that the exclusive grounds for termination of cessation orders and notices of violation are the abatement of all conditions, practices, or violations listed in the order or notice. A permittee is responsible for the reclamation of its surface coal mining operation, including abatement of all violations, regardless of impediments that may be raised by recalcitrant surface owners. *See Elk Valley Mining Company* v. *OSM,* Case No. NX6–65–R (March 31, 1988) (''It would be contrary to the purposes of the Act for the Applicant to be able to shield itself from enforcement of the Act by his failure to reach a lease agreement with a private party.'') *See, also, Wilson*