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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Arrangement of Transportation of Freight and Cargo

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is establishing a size standard of \$5.0 million in average annual receipts for the Arrangement of Transportation of Freight and Cargo industry (Standard Industrial Classification (SIC) code 4731). In addition, for brokers and agents in this industry such as Freight Forwarders and Customs Brokers, SBA is also changing the way average annual receipts are calculated for these firms to allow pass-through of funds held in trust for unaffiliated third parties. SBA is adopting two exceptions to this size standard. For Non-Vessel Owning Common Carriers and for Household Goods Forwarders (who sometimes classify themselves in SIC 4731), the current \$18.5 million size standard will remain in effect. These revisions better define the size of business in this industry that SBA believes should be eligible for Federal small business assistance programs.

DATES: This rule is effective on September 8, 2000.

FOR FURTHER INFORMATION CONTACT: Patricia Holden, Office of Size Standards, (202) 205-6385.

SUPPLEMENTARY INFORMATION: SBA has received requests from the public to review the size standard for the Arrangement of Transportation of Freight and Cargo industry (Standard Industrial Classification (SIC) code 4731). In particular, these requests express a concern about the method in which average annual receipts are calculated for Freight Forwarders and

Custom Brokers within this industry. In response to those requests, on July 26, 1999, SBA published a proposed rule to revise the size standard for the Arrangement of Transportation of Freight and Cargo industry from \$18.5 million to \$5.0 million. (See 64 FR 40314.) The rule also proposed to revise the way average annual receipts are calculated to exclude pass-through of funds held in trust for unaffiliated third parties.

SBA proposed this size standard based on its analysis of the latest available U.S. Bureau of the Census (the Census Bureau) industry data for SIC 4731 and Federal contract award data from the Federal Procurement Data Center. SBA evaluated certain factors describing the economic characteristics of firms in the Arrangement of Transportation of Freight and Cargo industry. These factors were average firm size, the distribution of industry revenues by size of firm, start-up costs, and industry competition. SBA compared the characteristics of the Arrangement of Transportation of Freight and Cargo industry to the average characteristics of all industries with a \$5.0 million size standard which is the most common size standard established for nonmanufacturing industries and is referred to as the "anchor" size standard for the nonmanufacturing industries. Doing so enabled SBA to determine if the size standard for Arrangement of Transportation of Freight and Cargo industry should be higher, lower or the same as the \$5 million anchor size standard. In addition, SBA reviewed the percent of total Federal contract dollars awarded to small businesses to determine if they were obtaining a reasonable share of Federal contracts. For a further discussion of SBA's size standards methodology and the analyses leading to the proposed size standard see the proposed rule of July 26, 1999 (64 FR 40314).

We also evaluated whether certain funds should be excluded in the calculation of a firm's average annual receipts. We examined five industry characteristics under which it might be appropriate to exclude from a firm's receipts funds received for and then later transmitted to an unaffiliated third party. These five characteristics are: (1) A broker or agent-like relationship exists between a firm and a third party

provider and this relationship represents a dominant or crucial activity of firms in the industry; (2) the pass-through funds associated with the broker or agent-like relationship are a significant portion of the firm's total receipts; (3) consistent with the normal business practice of firms in the industry, a firm's income remaining after the pass-through funds are remitted to a third party is typically derived from a standard commission or fee; (4) the firm does not usually consider billings that are reimbursed to other firms as its own income, preferring instead to count only receipts that are retained for its own use; and, (5) Federal government agencies which engage in the collection of statistics and other industry analysts typically represent receipts of the industry firms on an adjusted receipts basis. SBA's review of information found that these characteristics generally exist for the bulk of firms in the industry. Since most firms classified in this industry are Freight Forwarders and Customs Brokers who work on commission, those characteristics supported the proposal to exclude from the calculation of a firm's receipts funds received in trust for unaffiliated third parties.

The comments we received revealed that among the 19 activities listed in SIC 4731, there are two major types of firms in the industry—those that operate as agents/brokers and have funds held in trust for others, and those that do not. For those that operate as agents/brokers the two changes proposed in the rule work together and result in an effective increase in their size standard. For those that do not, the size standard is effectively reduced because they do not benefit from the pass-through provision. To address the different situations between the two groups, we are retaining the current size standard for some of the 19 activities, while adopting the proposed size standard for most other types of firms in SIC 4731. The final rule makes explicit how the remaining non-agent/broker firms included in SIC 4731 are affected by this change in the size standard. We clarify which activities in SIC 4731 will have a size standard of \$5.0 million, which activities will benefit from the exclusion of pass-through of funds held in trust in calculating average annual receipts, and which activities continue to use the \$18.5 million on gross receipts.

This final rule adopts a size standard of \$5.0 million in average annual receipts (after excluding funds received in trust for unaffiliated third parties) for all firms in SIC 4731, except for Household Goods Forwarders and Non-Vessel Owning Common Carriers. Firms engaged in agent/broker activities, such as Freight Forwarder and Customs Broker, receive a significant amount of receipts as pass-through funds which will not be counted in calculating their size. Activities listed in SIC 4731 in which firms do not operate as agents/brokers, such as Freight Consolidation, Freight Rate Auditors, and Tariff Consultants, will also have a size standard of \$5.0 million in average annual receipts. However, the calculation of their average annual receipts will be the same as before since they do not receive pass-through funds. Although these firms will not benefit directly from the pass-through exclusion, SBA's analysis of the characteristics of firms in SIC 4731 strongly support the \$5 million size standard for this industry. We received no comments from any of these firms in SIC 4731 indicating otherwise.

Included in SIC 4731 but not listed among the 19 activities, is one activity which does not operate either as auditor/consultant or as broker/agent. It is the Non-Vessel Owning Common Carriers. They acquire bulk space on vessels they do not own and sell that space in smaller units to shippers. They do not operate on an agency basis or hold funds in trust for unaffiliated third parties. They therefore must calculate average annual receipts based on gross receipts. These firms have substantial expenses not usually incurred by either the "arranging" or "auditing" types of firms. The \$5.0 million size standard would not be reflective of their size operation, therefore we have decided to retain the size standard of \$18.5 million for Non-Vessel Owning Common Carriers.

A group of firms not included as part of SIC 4731, but who sometimes use that SIC code for Federal contracting purposes, is Household Goods Forwarders. These firms also incur substantial investment and overhead (such as owning or leasing large trucks and employing drivers) not usually found in the "arranging" or "auditing" firms. They do not operate on commission as agents and do not hold funds in trust for unaffiliated third parties that can be "passed-through" when calculating average annual receipts. To change their size standard from \$18.5 million to \$5.0 million without benefit of the pass-through provision would have an unintentional

adverse impact. Therefore, we are also retaining the \$18.5 million size standard for Household Goods Forwarders. This is the same size standard for movers in the transportation industries in Major Group 42.

Discussion of Comments

SBA received 12 timely comments on the proposed SIC 4731 size standards. Two comments are from associations and 10 are from businesses. Nine of the 12 comments opposed the proposed size standard. The objections are from Household Goods Forwarders and Non-Vessel Owning Common Carriers who do not receive any funds that would qualify for the pass-through provision and so would see their size standard reduced. The three comments in support of the proposed size standard are from the Freight Forwarders and Customs Brokers who operate on commissions and fees and who comprise the majority of the firms in SIC 4731. The benefit to this group by allowing average annual receipts to be calculated after excluding pass-through funds effectively increases their size standard by about three times even though the nominal size standard is decreased.

One firm, that operates as a freight forwarder on a commission basis, was strongly in favor of the proposed changes. The commenter discussed the substantial benefit the proposed change in size standard would have for his firm and the approximately 500 other similar firms in his area.

A Freight Forwarder and Customs Broker association, representing over 1,000 members, discussed the diversity of its membership. It noted that "SIC 4731 is not a homogenous classification". It explained that there are two subsets of activities that operate within the Arrangement of Transportation of Freight and Cargo industry: Household Goods Forwarders and Non-Vessel Owning Common Carriers. The association expressed support for the speedy adoption of the proposed rule for its members who operate as agents/brokers on commission. It also urged SBA to segregate the industries within SIC 4731 and to establish a different size standard for those industries that operate on contract or profit from leasing and sub-leasing activities. Their alternate recommendation, if SBA was to adopt a "one-size-fits-all" size standard, is to make the size standard \$10.0 million, not \$5.0 million.

Another association also partially supported the proposed rule changes. It represents a large membership divided between those who operate as Freight

Forwarders and Customs Brokers for commissions and fees and those who operate as Household Movers on a contract (and sub-contract) basis. It discussed how the activities of its members are diverse enough that different regulatory agencies are responsible for licensing and oversight. The Household Movers are licensed by the Federal Highway Administration (FHWA) while the Freight Forwarders are licensed by the Federal Maritime Commission (FMC). This association also urged us to adopt two different size standards for the industries within SIC 4731. It recommended that SBA retain "the present \$18.5 million standard for FHWA freight forwarders and adopt the \$5 million standard with its concomitant reduction in receipts for pass-through funds for companies that are engaged in business as FMC ocean freight forwarders and/or customs brokers."

One group of comments opposing the proposed rule changes was from firms engaged in household moving and storage. Many of these firms obtain contracts from the Department of Defense on a "Single Rate Factor" for "door-to-door" service and subcontract out parts of the contract. They pay the subcontractor (e.g., the long-distance hauler) out of the single rate. Since these firms do not operate on commission and hold no pass-through funds, the proposed rule would have significantly reduced their size standard. Some of these firms have the word "forwarder" in their names, but their comments describe their activities as the actual mover or as the general contractor responsible for the entire move. For example, their comments included statements such as: "they have to invest in equipment/trucks; * * * sometimes use third parties in providing door-to-door service, but never on an agent-like relationship;" they are "active in the movement of personal household goods"; "sometimes they provide storage;" "they use the services of port agents, etc., but not as brokers;" they are "primarily a household goods forwarder providing door-to-door moving service for the Department of Defense * * * using the 'Single-Rate Factor' on a contract basis;" and "as a small business in the moving industry * * *" Only one of the comments from these firms noted that the five industry characteristics discussed in the proposed rule "clearly defines brokers" and agreed that, "it might be appropriate to exclude certain funds" in those cases.

The other group of firms that objected to the change in the proposed size standard operate as entrepreneurs. They are not agents or brokers and they do

not operate off of the "one-rate" fee schedule as do the Household Goods Forwarders. This group, known as Non-Vessel Owing Common Carriers, acquire large (bulk) space on ships they do not own, then "retail" that space in smaller lots to actual shippers. They do not view themselves as transportation firms in Major Group 42

(Transportation) because they neither own the ships nor drive the trucks (as do household movers). Their income is derived through the profit (or loss) from the resale of space they acquire in bulk from ship owners. If the ship sails before they have sold all their space, it is possible for the cost of the space to exceed the income derived from the space. They assume that risk as entrepreneurs. In this respect, they operate like wholesalers. The relevant point for this size standard is that their income (like Household Goods Forwarders) is not derived on a commission or fee basis. If the proposed size standard were adopted, they would be limited to the \$5.0 million size standard without the benefit of the pass-through funds exclusion because they do not hold any such funds in trust for unaffiliated third parties. They are not currently listed as one of the 19 activities in SIC 4731. Never-the-less, the Census Bureau advised us that they are included in this SIC.

The comments from Household Goods Forwarders and Non-Vessel Owing Common Carriers express a consistent and serious concern. For businesses between \$5.0 million and \$18.5 million in size that do not operate as agents or brokers that have substantial overhead such as buying trucks or bulk ship space, and that do not derive any receipts from commissions or fees that would qualify as pass-through funds, the change in the size standard from \$18.5 million to \$5.0 million would effectively lower the size standard and take away their current eligibility to compete for Federal contracts reserved for small business or obtain SBA financial assistance.

The comments revealed that two types of firms who do not operate on commission would be significantly impacted by the proposed size standard through an unintended lowering of the size standard. The purpose of the proposed rule was to recognize that much of the receipts of Freight Forwarders and Customs Brokers (like real estate agents) are held in trust for others and should not be included in the calculation of their size. SBA accepts the significance of the concerns of the Household Goods Forwarders and the Non-Vessel Owing Common Carriers and is therefore retaining the

\$18.5 million gross average annual receipts size standard for these types of firms.

SBA believes the Household Goods Forwarders who use SIC 4731 will be a small group. In most cases where firms do more than just "arrange" transportation, and do not operate as agents/brokers, SBA believes that a different SIC code is usually more appropriate. Household goods moving and storage is listed by name in SIC 4213 (Trucking, Except Local), SIC 4214 (Local Trucking with Storage), and SIC 4226 (Special Warehousing and Storage, Not Elsewhere Classified). The size standard for these industries is \$18.5 million.

The distinction between firms actually moving freight and cargo and those that only arrange or provide transportation services will be more obvious in the North American Industry Classification System (NAICS) which will be effective October 1, 2000 for size standard purposes (see further discussion below). Household movers will be classified in NAICS code 484210—"Used Household and Office Goods Moving," not Freight Forwarding. The same \$18.5 million size standard now applicable to the Transportation industries was also included in the NAICS final rule (65 FR 30836, dated May 15, 2000).

NAICS code 484210 is comprised of parts of SIC 4212, 4213 and 4214 (See NAICS Manual at 859). The definition states "This industry comprises establishments primarily engaged in providing local or long-distance trucking of used household, used institutional, or used commercial furniture and equipment. Incidental packing and storage activities are often provided by these establishments." (See NAICS Manual at 471). We are aware that some of the activities in which moving firms engage can be classified as "arranging" transportation of freight or cargo. However, firms that provide multiple services should classify themselves under the SIC or NAICS code for their dominant activity. Firms that provide trucks and staff to actually pack, load trucks, drive trucks, store goods on a temporary basis, but who also subcontract out ("arrange for") parts of the job they cannot or chose not to handle, are more properly classified under an appropriate code within Major Group 42 in the SIC Manual because acting as agents or brokers is not their dominant activity.

In the proposed rule, SBA asked for comments on whether or not Freight Forwarders and Customs Brokers that work on commission usually work for about 6 percent to 10 percent of the total

billing. One association responded to this question. It polled its members and verified that the range of commissions is approximately 6 percent to 10 percent.

We accepted the comments and are retaining the \$18.5 million size standard for Household Goods Forwarders and Non-Vessel Owing Common Carriers who classify themselves in SIC 4731. This is also the size standard for the transportation industries in Major Group 42 (Transportation) so that regardless of how a Moving and Storage or Non-Vessel Owing Common Carrier firm is classified, it has the same size standard. We believe this is a better approach than establishing a \$10.0 million size standard for all firms in SIC 4731 since it takes into account the differences in the firms currently classified under this size standard.

Furthermore, the Census Bureau data does not support a size standard as high as \$10.0 million for the entire industry. The Census data collects revenue information in this industry excluding funds received for unaffiliated third parties. Therefore, the data is collected as if the pass-through provision is in effect. We recognize that not all firms in SIC 4731 have trust funds to exclude. Even so, (except for the Non-Vessel Owing Common Carriers and the Household Goods Forwarders) a size standard of \$5.0 million fit the data well when differences in how the broker/agent and auditor/consultant firms (classified in SIC 4731) account for their funds are explicitly recognized. The Census Bureau is already making that accommodation in data collection.

Reclassification of Activities Under the North American Industry Classification System

The 19 activities currently listed in SIC 4731 will be divided into two industries under the NAICS, which SBA will adopt on October 1, 2000 for its size standards. SBA published a final rule in the **Federal Register** May 15, 2000 to adopt the NAICS classification, listing each industry and its corresponding size standard (65 FR 30836). SBA's final rule established guidelines to use in cases where activities included in a SIC code were reclassified in NAICS. Newly created classifications generally retained the same size standards that the activity had under the SIC classification. In cases where an activity was removed from one industry group to be included in another industry group, the proposed rule stipulated that the size standard for that industry group would be that of the predominant activity.

As mentioned above, activities currently listed in SIC 4731 will be put into two different classifications in

NAICS. Firms that do not operate as agent/brokers such as Freight Rate Auditors and Tariff Consultants currently listed in SIC 4731 will be classified as NAICS 541614, "Process, Physical Distribution, and Logistics Consulting" which is part of "Management Consulting Services." Other non-agent/broker activities currently included in SIC 4731 include Freight Rate Information Service, Tariff Rate Information Service, Transport Clearinghouse, Transportation Rate Service, Customs Clearance of Freight, Freight Consolidation, Shipping Documents Preparation, and Freight Agencies Railroad, (not operated by Railroad Companies). Of these, Freight Rate Information Service, Freight Consolidation, and Freight Agencies Railroad, (not operated by Railroad Companies) are reclassified as "Freight Traffic Consulting Services," "Freight Rate Consulting Services" or "Transportation Management Consulting Services" and are also in NAICS 541614.

Using the NAICS procedures for establishing size standards when industries are reclassified, when Tariff Consultants and Freight Rate Auditors are added to the 'Logistics' industry (NAICS code 541614), they will have the same \$5.0 million size standard applicable to the entire 'Logistics' industry. This size standard is consistent with what was proposed for these activities as part of SIC 4731 and what we are adopting in this final rule. All activities in NAICS 541614 will have the \$5.0 million size standard and there is no pass-through of commissions for the non-commission entities.

All other activities currently listed in SIC 4731, including agent/broker activities who "arrange transportation" are classified in NAICS 488510, "Freight Transportation Arrangement." It will be a more homogenous group of firms in NAICS than in the SIC. It is described in the NAICS manual (page 487) as establishments that are "usually known as freight forwarders, marine shipping agents, or customs brokers, and offer a combination of services * * *." The SBA will also adopt the \$5 million size standard for NAICS 488510 when it establishes NAICS-based size standards. It will also allow pass-through of trust funds when calculating average annual

receipts for those firms that hold funds in trust for unaffiliated third parties.

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. 3501, Ch. 35.)

This rule is a "significant" regulatory action under Executive Order 12866 and was reviewed by the Office of Management and Budget. However, it is noteworthy that the total value of Federal procurement and SBA guaranteed loans combined is less than \$50 million annually to this \$9.1 billion industry (1992 Economic data). It is unlikely that these programs would be significantly affected by this change to the size standard. Although potentially 1,000 firms could gain small business status as a result of this rule, historically only a very small percentage of firms in the industry compete for Federal procurements or obtain guaranteed loans through SBA's financial assistance programs.

For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 3 of that Order.

For purposes of Executive Order 13132, SBA has determined that this rule does not have federalism implications warranting the preparation of a Federalism Assessment.

For purposes of the Regulatory Flexibility Act, this rule will not have a substantial impact on a significant number of small entities. As mentioned above, although potentially 1,000 additional firms could gain small business status as a result of this rule, historically only a very small percentage of firms in the industry compete for Federal procurements or obtain guaranteed loans through SBA's financial assistance programs.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule will not impose new reporting or record-keeping requirements.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business,

Reporting and recordkeeping requirements, Small businesses.

For reasons stated in the preamble, SBA is amending 13 CFR part 121 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. Revise § 121.104(a)(1) to read as follows:

§ 121.104 How does SBA calculate annual receipts?

(a) * * *

(1) *Receipts* means "total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms; Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for sole proprietorships). However, the term receipts excludes net capital gains or losses, taxes collected for and remitted to a taxing authority if included in gross or total income, proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS), and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker.

* * * * *

3. In § 121.201, currently in effect, amend the table "Size Standards by SIC Industry" as follows:

a. Under the heading Division E—Transportation, Communications, Electric, Gas, and Sanitary Services, Major Group 47—Transportation Services, revise the entry for 4731.

b. Revise footnote 6 at the end of the table.

The revisions read as follows:

§ 121.201 What size standards has SBA identified by Standard Industrial Classification codes?

* * * * *

SIZE STANDARD BY SIC INDUSTRY

SIC code and description						Size standards in number of employees or millions of dollars
*	*	*	*	*	*	*
Division E—Transportation, Communications, Electric, Gas, and Sanitary Services						
*	*	*	*	*	*	*
4731 Arrangement of Transportation of Freight and Cargo						⁶ \$5.0
Non-Vessel Owning Common Carriers and Household Goods Forwarders						\$18.5
*	*	*	*	*	*	*

Footnotes:

* * * * *

⁶SIC codes 4724, 4731 (part), 6531, 7311, 7312, 7313, 7319, and 8741 (part): As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

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Dated: July 14, 2000.

Fred P. Hochberg,*Deputy Administrator.*

[FR Doc. 00-19018 Filed 8-8-00; 8:45 am]

BILLING CODE 8025-01-U

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2000-SW-01-AD; Amendment 39-11854; AD 2000-15-21]

RIN 2120-AA64

Airworthiness Directives; Bell Helicopter Textron Inc.—Manufactured Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, and UH-1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A-1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Bell Helicopter Textron Inc. (BHTI)-manufactured Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, and UH-1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A-1 helicopters. This AD requires removing and replacing certain main rotor mast (mast) assemblies. This AD is prompted by a BHTI-manufactured Model UH-1B accident due to fatigue failure of a thin-wall mast

installed on the helicopter. The actions specified by this AD are intended to prevent fatigue failure of the mast and subsequent loss of control of the helicopter.

EFFECTIVE DATE: August 24, 2000.

FOR FURTHER INFORMATION CONTACT:

Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193-0170, telephone (817) 222-5447, fax (817) 222-5783.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD for BHTI-manufactured Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, and UH-1P; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A-1 helicopters was published in the **Federal Register** on March 24, 2000 (65 FR 15882). That action proposed to require removing any mast assembly, part number (P/N) 204-011-450-001 or -005, and replacing it with an airworthy mast assembly.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that the FAA's reference to the affected aircraft as "BHTI-manufactured" implies BHTI responsibility. The commenter states that BHTI never obtained an FAA type certificate for the affected helicopters. Although BHTI originally manufactured the affected helicopters for the U.S. military, they have not produced any

helicopters of these types for 20 years. The commenter requests that we refer to the affected aircraft as "FAA type certificated U.S. military surplus UH-1 helicopters." The FAA agrees that BHTI is neither the type certificate holder nor the production certificate holder. However, the FAA does not concur that the terminology "Bell Helicopter Textron Inc.-manufactured" implies BHTI responsibility. The type certificate holder is responsible for defining corrective actions for the aircraft on their type certificate (see 14 CFR 21.99). The FAA uses the terminology "Bell Helicopter Textron Inc.-manufactured Model * * *" only to identify the original manufacturer of the helicopter. The use of this terminology in no way intends to assign or imply responsibility to BHTI.

The commenter also requests that the FAA type certificate holders or the applicable entities be specifically identified in the applicability section of the AD. The FAA does not agree to this request because the type certificate holders are already specifically identified by name in the paragraph immediately preceding the "applicability" paragraph of the AD.

The commenter also states that the mast pole referred to in the NPRM was retired by the Army years ago. Since the commenter understands that the Army manuals are used by the FAA in certifying the affected helicopters, the commenter questions why the helicopters are not already out of configuration. The configuration change