

# Proposed Rules

Federal Register

Vol. 75, No. 242

Friday, December 17, 2010

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

### Agricultural Marketing Service

#### 7 CFR Part 201

[Doc. No. AMS-LS-08-0002]

RIN 0581-AC74

#### Federal Seed Act Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** AMS is proposing to revise the Federal Seed Act (FSA) regulations. The changes would amend the list of prohibited noxious-weed seeds to reflect the recent addition of four species, deletion of two species, and nomenclature change of four species listed in the Federal Noxious Weed Act (FNWA); update the seed labeling regulations; update the seed testing regulations; update the noxious-weed seed tolerances; update the seed certification regulations; and correct several minor errors, including updating the nomenclature of kinds regulated under the FSA. The list of noxious-weed seeds would be amended to help prevent the spread of these highly destructive weeds. Updating the labeling regulations and noxious-weed seed tolerances would prevent potential conflicts with State regulations, reflect currently used terms, and reflect current industry practices. Updating the seed testing and seed certification regulations would incorporate the latest in seed testing and seed certification knowledge and prevent potential conflicts with State regulations.

**DATES:** Comments must be received by February 15, 2011 to be assured of consideration. A public hearing will be held January 21, 2011 at 10 a.m. at the address listed below.

**ADDRESSES:** Interested persons are invited to submit comments on this proposal. Comments may be submitted electronically at <http://www.regulations.gov>. Comments may also be sent to Richard C. Payne, Chief,

Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054-2193 by mail or by fax to (704) 852-4109.

All comments should reference the docket number (Doc. No. AMS-LS-08-0002), the date, and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Comments will be available for public inspection during regular business hours at the above address or via the Internet at <http://www.regulations.gov>.

Additionally, a public hearing will be held on January 21, 2011, at 10 a.m. in Room 68 at the Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054-2193. Interested parties will be allowed to present views concerning the proposal.

**FOR FURTHER INFORMATION CONTACT:**

Richard C. Payne, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054-2193; telephone (704) 810-8884; fax (704) 852-4109; e-mail [richard.payne@ams.usda.gov](mailto:richard.payne@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

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

**Executive Order 12988**

The proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. There are no administrative procedures that must be exhausted prior to judicial challenge to the provision of this rule.

**Regulatory Flexibility Act and Paperwork Reduction Act**

AMS has certified that this action will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). Many small entities

ship seed in interstate commerce. There are about 3,095 interstate shippers. Small agricultural service firms, which include interstate shippers, are defined by the Small Business Administration as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201). We estimate that about 90 percent of the interstate shippers are small entities.

Shippers, including small entities, usually test and subsequently package and label seed to comply with both the FSA and State seed laws. This is possible because the testing requirements of the State laws are similar or the same as those of the FSA. Therefore, a single test provides information necessary to comply with both State seed laws and the FSA. The changes proposed by AMS to the seed testing and seed certification regulations would reconcile State and Federal seed testing and seed certification procedures. Moreover, using similar or the same testing procedures will reduce the burden on small entities shipping seed in interstate commerce because a test used for interstate commerce could also be used in intrastate commerce.

Adding four species to the list of seeds that are noxious in seed shipped in interstate commerce would not significantly impact small entities by adding additional costs for seed testing, because all seed must currently be examined for 93 noxious-weed seeds listed in the FSA regulations and those listed in the State laws to be compliant with the FSA. (The FSA requires that seed shipped in interstate commerce comply with the noxious-weed seed requirements of that State into which the seed is shipped.) Therefore, any examination required by this proposal would be in conjunction with examination that already occurs for State noxious-weed seeds. Updating the noxious-weed seed tolerances to be uniform with those required by State laws will make FSA and State regulatory action uniform and not increase the burden on small entities shipping seed in interstate commerce.

The proposed change removal of the exemption in the FSA regulations for labeling freshly harvested Kentucky bluegrass seed and sugar beet seed shipped in interstate commerce during July, August, and September for germination would not add additional costs for seed testing because this testing and subsequent labeling is

required by State seed laws and regulations. Also, much of the seed handled by small entities is already tested by their suppliers. There will be no effect on the competitive position of small entities in relation to larger entities since both will have to comply with the same regulations.

This rule would not impose any additional reporting or recordkeeping requirements. Such requirements are currently approved by OMB under Control No. 0581-0026.

#### Executive Order 13132

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13132, Federalism. USDA has determined that this rule conforms to the Federalism principles set forth in the Executive Order, and that this rule does not have Federalism implications.

#### Background

The FSA, Title II (7 U.S.C. 1571-1575) regulates agricultural and vegetable planting seeds in interstate commerce. Agricultural and vegetable seeds shipped in interstate commerce must be labeled with certain quality information. The labeling information and any advertisements pertaining to the seed must be truthful.

#### Terms Defined

This proposed rule would revise and update the nomenclature of many of the kinds of agricultural and vegetable seeds listed in §§ 201.2(h) and 201.2(i) to conform to current usage on the International Code of Botanical Nomenclature. It would also add “bunching onion” and “radicchio” as acceptable synonyms for “Welch onion” and “chicory,” respectively, in § 201.2(i). “Bunching onion” and “radicchio” are commonly used and accepted kind names by companies selling and labeling seed.

#### Noxious-Weed Seeds

Under the Federal Noxious Weed Act (FNWA) of 1974 (7 U.S.C. 2801-2814) the Secretary has identified certain noxious weeds that are prohibited movement into or through the United States. AMS is proposing to amend § 201.16(b) of the FSA regulations to designate seeds of four additional species of noxious weeds listed under the FNWA as noxious in agricultural and vegetable seed shipped in interstate commerce under the FSA. In addition, AMS proposes to amend the FSA regulations to remove two species no longer cited in the FNWA and revise the nomenclature of four species to be consistent with the nomenclature in the

FNWA. The USDA, Animal and Plant Health Inspection Service (APHIS) enforces both the FNWA and Title III, the Foreign Commerce provisions of the FSA. However, the FNWA does not apply to seeds for planting which are subject to the FSA and does not apply to any noxious weed seeds which may contaminate seed subject to the provisions of the FSA. Thus, AMS cannot currently take regulatory action when seeds of the four species classified as noxious under the FNWA are found in planting seed. Therefore, by recognizing them as noxious weeds under the FSA, AMS can act in an orderly way to prevent their spread on those rare occasions that they are found in planting seeds. Noxious weeds which are not listed under the FSA may still be restricted under the FSA in some cases. Each State has a list of weed seeds that are noxious in planting seed. Weed seeds that are designated noxious by each State are also noxious under the FSA when present in seed shipped into that State.

#### Seed Testing

The proposed rule would update the FSA seed testing regulations to include testing to reflect improvements in seed testing technology and the current standards of usage within the industry as outlined below. The Association of Official Seed Analysts (AOSA) has already adopted these changes in their “Rules for Testing Seed.” the testing rules used by most State and commercial seed analysts. Including these changes in the FSA regulations would eliminate potential conflicts between the testing rules used in interstate commerce and those used by the States. This would eliminate the need to do separate tests to ensure that seed labeling complies with both Federal and State laws. It will also facilitate seed trade and reduce cost to the seed industry and to seed buyers.

Proposed changes to §§ 201.48(g) and 201.51(b) specify a change in the FSA regulations for determining pure seed and inert matter for 18 grass seed kinds. The change would require pure seed of these 18 kinds to have a caryopsis at least one-third the length of the palea. The change would also require seeds of these 18 grass kinds to be classified as inert matter if the caryopsis development is less than one-third the length of the palea. Currently, all seeds of these 18 grass kinds are considered pure seed if the caryopsis has some degree of endosperm development.

#### Noxious-Weed Seed Tolerances

The proposed rule would update the FSA seed testing regulations to reflect

improvements in the noxious-weed seed tolerances using modern statistical applications. The AOSA has already adopted these changes in their “Rules for Testing Seed,” the rules used by most State and commercial seed analysts. Including these changes would eliminate potential conflicts between FSA and State regulatory action.

#### Seed Certification

This proposed rule would also update the certified seed regulations. Sections 201.74 and 201.75 would be amended to permit the option of printing the lot number, kind, and variety name (if certified to variety) on the seed container in a position to be viewed in conjunction with the official certification label. A sentence in §§ 201.74 and 201.75, pertaining to small containers of seed, would be deleted because these containers are covered in the amendment. The Association of Official Seed Certifying Agencies (AOSCA), the organization that develops rules for use by its members to certify seed for varietal purity, has already amended its rules to allow the option of printing certain required labeling information on seed containers outside the confines of the certification label. This proposed rule would reflect that change in the AOSCA rules and current industry practices. In addition, this option would allow seed companies to realize a financial savings by purchasing seed bags with preprinted certification labels in large quantities and add the required information pertinent to each seed lot.

#### Seed Labeling

We are proposing to add the term “(Environmental Protection Agency Toxicity Category I)” after references to “mercurials and similarly toxic substances” in §§ 201.31a(c)(1), 201.31a(c)(2), and 201.31a(d).

The current FSA regulations refer to the most toxic class of chemical seed treatments as “mercurials and similarly toxic substances.” However, mercury-based compounds are no longer used by the seed industry for treating seeds. Further, the current classification by the Environmental Protection Agency (EPA) of the most toxic chemical compounds used as seed treatments is “Toxicity Category I.” Chemicals of this toxicity, sold in bulk for treating seed, are required by EPA to be labeled as Toxicity Category I compounds. Therefore, adding the term “(Environmental Protection Agency Toxicity Category I)” to the FSA regulations would clarify the labeling requirements for seed treated with the most toxic class of chemical compounds

used by the seed industry, reduce the possibility of mislabeling chemically treated seed shipped in interstate commerce, and provide consistency with classification terms used by EPA.

AMS is proposing to update § 201.20 by removing the exemption from labeling freshly harvested Kentucky bluegrass and sugar beet seed sold in July, August, and September for germination. Germination labeling is required for all other kinds of seeds regulated by the FSA. This exemption is no longer needed because current industry practice is to label all kinds of seed for germination prior to shipment and sale. Since State seed laws require labeling of all seed for germination, removing this exemption would eliminate conflict between the FSA regulations and State seed labeling requirements.

#### List of Subjects in 7 CFR Part 201

Certified seed, Definitions, Inspections, Labeling, Purity analysis, Sampling.

For reasons set forth in the preamble, it is proposed that 7 CFR part 201 be amended as follows:

#### PART 201—FEDERAL SEED ACT REGULATIONS

1. The authority citation for part 201 continues to read as follows:

**Authority:** 7 U.S.C. 1592.

##### § 201.2 [Amended]

2. Section 201.2 is amended by:

A. In the introductory text, removing the words “§§ 201.1 through 201.159” and adding the words “this part” in its place.

B. In paragraph (f), removing the word “act” and adding the word “Act” in its place, and by removing the words “§§ 201.1 through 201.159” and adding the words “this part” in their place.

C. In paragraph (h), removing the terms “Agrotricum—*x Agrotriticum Ciferri and Giacom.*”, “Alfalfa—*Medicago sativa* L.”, “Alfilaria—*Erodium cicutarium* (L.) L’Her.”, “Bahia grass—*Paspalum notatum* Fluegge”, “Barley—*Hordeum vulgare* L.”, “Bean, adzuki—*Vigna angularis* (Willd.) Ohwi and Ohashi”, “Bean, field—*Phaseolus vulgaris* L.”, “Bean, mung—*Vigna radiata* (L.) Wilczek”, “Bentgrass, creeping—*Agrostis stolonifera* L. var. *palustris* (Huds) Farw.”, “Bermudagrass, giant—*Cynodon dactylon* (L.) Pers. var. *Aridus* Harlan and de Wet”, “Bluegrass, Nevada—*Poa secunda* J.S. Presl”, “Bluestem, big—*Andropogon gerardii* Vitm. var. *gerardii*”, “Bluestem, yellow—*Bothriochloa ischaemum* (L.) Keng”,

“Brome, meadow—*Bromus biebersteinii* Roem. and Schult.”, “Brome, smooth—*Bromus inermis* Leyss.”, “Corn, field—*Zea mays* L.”, “Corn, pop—*Zea mays* L.”, “Crambe—*Crambe abyssinica* R.E. Fries”, “Crotalaria, slenderleaf—*Crotalaria brevidens* Benth. var. *intermedia* (Kotschy) Polh.”, “Crotalaria, striped or smooth—*Crotalaria pallida* Ait.”, “Crownvetch—*Coronilla varia* L.”, “Dichondra—*Dichondra repens* Forst. and Forst. f.”, “Emmer—*Triticum dicoccon* Schrank”, “Fescue, chewings—*Festuca rubra* L. subsp. *commutata* Gaud.”, “Fescue, hair—*Festuca tenuifolia* Sibth.”, “Fescue, hard—*Festuca brevipila* Tracey”, “Fescue, sheep—*Festuca ovina* L. var. *ovina*”, “Grama, blue—*Bouteloua gracilis* (Kunth) Steud.”, “Hardinggrass—*Phalaris stenoptera* Hack.”, “Hemp—*Cannabis sativa* L.”, “Kudzu—*Pueraria montana* (Lour.) Merr. var. *lobata* (Willd.) Maesen and S. Almeida”, “Lentil—*Lens culinaris* Medik.”, “Lespedeza, sericea or Chinese—*Lespedeza cuneata*”, “Lespedeza, striate—*Kummerowia striata* (Thunb.) Schindler”, “Lovegrass, sand—*Eragrostis trichodes* (Nutt.) Wood”, “Millet, foxtail—*Setaria italica* (L.) P. Beauv.”, “Millet, Japanese—*Echinochloa frumentacea* Link”, “Millet, proso—*Panicum miliaceum* L.”, “Molassesgrass—*Melinis minutiflora* Beauv.”, “Mustard, black—*Brassica nigra* (L.) Koch”, “Mustard, India—*Brassica juncea* (L.) Czernj. and Coss.”, “Mustard, white—*Sinapis alba* L.”, “Oat—*Avena byzantina* C. Koch, *A. sativa* L., *A. nuda* L.”, “Oatgrass, tall—*Arrhenatherum elatius* (L.) J.S. Presl and K.B. Presl”, “Panicgrass, green—*Panicum maxicum* Jacq. var. *trichoglume* Robyns”, “Pea, field—*Pisum sativum* L.”, “Rape, annual—*Brassica napus* L. var. *annua* Koch”, “Rape, bird—*Brassica rapa* L. subsp. *rapa*”, “Rape, turnip—*Brassica rapa* L. subsp. *silvestris* (Lam.) Janchen”, “Rape, winter—*Brassica napus* L. var. *biennis* (Schubl. and Mart.) Reichb.”, “Rescuegrass—*Bromus catharticus* Vahl”, “Ricegrass, Indian—*Oryzopsis hymenoides* (Roem. and Schult.) Ricker”, “Rye—*Secale cereale* L.”, “Rye, mountain—*Secale strictum* (K.B. Presl) K.B. Presl subsp. *strictum*”, “Ryegrass, Wimmera—*Lolium rigidum* Gaud.”, “Sorghum-sudangrass—*Sorghum × drummondii* (Steud.) Millsp. and Chase”, “Spelt—*Triticum spelta* L.”, “Sudangrass—*Sorghum × drummondii* (Steud.) Millsp. and Chase”, “Timothy, turf—*Phleum bertolonii* DC.”, “Trefoil, big—*Lotus uliginosus* Schk.”, “Triticale—*x Triticosecale* Wittm. (*Secale x Triticum*)”, “Veldtgrass—*Ehrharta calycina* J.E. Smith”, “Wheat, common—*Triticum aestivum* L.”, “Wheat, club—*Triticum compactum* Host”, “Wheat, durum—*Triticum durum* Desf.”, “Wheat, Polish—*Triticum polonicum* L.”, “Wheat, poulard—*Triticum turgidum* L.”, “Wheatgrass, beardless—*Pseudoroegneria spicata* (Pursh) A. Love”, “Wheatgrass, intermediate—*Elytrigia intermedia* (Host) Nevski subsp. *intermedia*”, “Wheatgrass, pubescent—*Elytrigia intermedia* (Host) Nevski subsp. *intermedia*”, “Wheatgrass, Siberian—*Agropyron fragile* (Roth) Candargy subsp. *sibiricum* (Willd.) Meld.”, “Wheatgrass, slender—*Elymus trachycaulus* (Link) Shinn.”, “Wheatgrass, streambank—*Elymus lanceolatus* (Scribn. and J.G. Smith) Gould subsp. *lanceolatus*.”, “Wheatgrass, tall—*Elytrigia elongata* (Host) Nevski”, “Wheatgrass, western—*Pascopyrum smithii* (Rydb.) A. Love”, and “Wildrye, basin—*Leymus cinereus* (Scribn. & Merr.) A. Love”.

D. In paragraph (h), adding the terms “Agrotricum—*x Agrotriticum* Cif. & Giacom.”, “Alfalfa—*Medicago sativa* L. subsp. *sativa*”, “Alfilaria—*Erodium cicutarium* (L.) L’Her.”, “Bahia grass—*Paspalum notatum* Flügge”, “Barley—*Hordeum vulgare* L. subsp. *vulgare*”, “Bean, adzuki—*Vigna angularis* (Willd.) Ohwi & H. Ohashi var. *angularis*”, “Bean, field—*Phaseolus vulgaris* L. var. *vulgaris*”, “Bean, mung—*Vigna radiata* (L.) R. Wilczek var. *radiata*”, “Bentgrass, creeping—*Agrostis stolonifera* L.”, “Bermudagrass, giant—*Cynodon dactylon* (L.) Pers. var. *aridus* J.R. Harlan & de Wet”, “Bluegrass, Nevada—*Poa secunda* J. Presl”, “Bluestem, big—*Andropogon gerardii* Vitman”, “Bluestem, yellow—*Bothriochloa ischaemum* (L.) Keng var. *ischaemum*”, “Brome, meadow—*Bromus biebersteinii* Roem. & Schult.”, “Brome, smooth—*Bromus inermis* Leyss. subsp. *inermis*”, “Corn, field—*Zea mays* L. subsp. *mays*”, “Corn, pop—*Zea mays* L. subsp. *mays*”, “Crambe—*Crambe abyssinica* R.E. Fr.”, “Crotalaria, slenderleaf—*Crotalaria brevidens* Benth. var. *intermedia* (Kotschy) Polhill”, “Crotalaria, striped or smooth—*Crotalaria pallida* Aiton”, “Crownvetch—*Securigera varia* (L.) Lassen”, “Dichondra—*Dichondra repens* J.R. Forst. & G. Forst.”, “Emmer—*Triticum turgidum* L. subsp. *dicoccon* (Schrank) Thell.”, “Fescue, Chewing’s—*Festuca rubra* L. subsp. *commutata* Gaudin”, “Fescue, hair—*Festuca filiformis* Pourr.”, “Fescue, hard—*Festuca trachyphylla* (Hack.) Krajina”, “Fescue, sheep—*Festuca ovina* L.”, “Grama, blue—*Bouteloua gracilis*

(Kunth) Griffiths”, “Hardinggrass—*Phalaris aquatica* L.”, “Hemp—*Cannabis sativa* L. subsp. *sativa*”, “*Kudzu—Pueraria montana* (Lour.) Merr. var. *lobata* (Willd.) Sanjappa & Predeep”, “Lentil—*Lens culinaris* Medik. subsp. *culinaris*”, “Lespedeza, sericea or Chinese—*Lespedeza cuneata* (Dum. Cours.) G. Don”, “Lespedeza, striate—*Kummerowia striata* (Thunb.) Schindl.”, “Lovegrass, sand—*Eragrostis trichodes* (Nutt.) Alph. Wood”, “Millet, foxtail—*Setaria italica* (L.) P. Beauv. subsp. *italica*”, “Millet, Japanese—*Echinochloa esculenta* (A. Braun) H. Scholz”, “Millet, proso—*Panicum miliaceum* L. subsp. *miliaceum*”, “Molassesgrass—*Melinis minutiflora* P. Beauv.”, “Mustard, black—*Brassica nigra* (L.) W.D.J. Koch”, “Mustard, India—*Brassica juncea* (L.) Czern. var. *juncea*”, “Mustard, white—*Sinapis alba* L. subsp. *alba*”, “Oat—*Avena byzantina* K. Koch, *A. sativa* L., *A. nuda* L.”, “Oatgrass, tall—*Arrhenatherum elatius* (L.) J. Presl & C. Presl subsp. *elatius*”, “Panicgrass, green—*Panicum maximum* Jacq.”, “Pea, field—*Pisum sativum* L. var. *arvense* (L.) Poir.”, “Rape, annual—*Brassica napus* L. var. *napus*”, “Rape, bird—*Brassica rapa* L. subsp. *campestris* (L.) A.R. Clapham”, “Rape, turnip—*Brassica rapa* L. subsp. *campestris* (L.) A.R. Clapham and subsp. *oleifera* (DC.) Metzg.”, “Rape, winter—*Brassica napus* L. var. *napus*”, “Rescuegrass—*Bromus catharticus* Vahl var. *catharticus*”, “Ricegrass, Indian—*Achnatherum hymenoides* (Roem. & Schult.) Barkworth”, “Rye—*Secale cereale* L. subsp. *cereale*”, “Rye, mountain—*Secale strictum* (C. Presl) C. Presl subsp. *strictum*”, “Ryegrass, Wimmera—*Lolium rigidum* Gaudin”, “Sorghum-sudangrass—*Sorghum × drummondii* (Steud.) Millsp. & Chase”, “Spelt—*Triticum aestivum* L. subsp. *spelta* (L.) Thell.”, “Sudangrass—*Sorghum × drummondii* (Steud.) Millsp. & Chase”, “Timothy, turf—*Phleum nodosum* L.”, “Trefoil, big—*Lotus uliginosus* Schkuhr”, “Triticale—*x Triticosecale* A. Camus (*Secale × Triticum*)”, “Veldtgrass—*Ehrharta calycina* Sm.”, “Wheat, common—*Triticum aestivum* L. subsp. *aestivum*”, “Wheat, club—*Triticum aestivum* L. subsp. *compactum* (Host) Mackey”, “Wheat, durum—*Triticum turgidum* L. subsp. *durum* (Desf.) Husn.”, “Wheat, Polish—*Triticum turgidum* L. subsp. *polonicum* (L.) Thell.”, “Wheat, poulard—*Triticum turgidum* L. subsp. *turgidum*”, “Wheatgrass, beardless—*Pseudoroegneria spicata* (Pursh) Á. Löve”, “Wheatgrass, intermediate—*Thinopyrum intermedium* (Host) Barkworth & D.R. Dewey subsp.

*intermedium*”, “Wheatgrass, pubescent—*Thinopyrum intermedium* (Host) Barkworth & D.R. Dewey subsp. *barbulatum* (Schur) Barkworth & D.R. Dewey”, “Wheatgrass, Siberian—*Agropyron fragile* (Roth) P. Candargy”, “Wheatgrass, slender—*Elymus trachycaulus* (Link) Shinnors subsp. *trachycaulus*”, “Wheatgrass, streambank—*Elymus lanceolatus* (Scribn. & J.G. Sm.) Gould subsp. *riparius* (Scribn. & J.G. Sm.) Barkworth”, “Wheatgrass, tall—*Thinopyrum elongatum* (Host) D.R. Dewey”, “Wheatgrass, western—*Pascopyrum smithii* (Rydb.) Barkworth & D.R. Dewey”, and “Wildrye, basin—*Leymus cinereus* (Scribn. & Merr.) Á. Löve”.

E. In paragraph (i), removing the terms “Artichoke—*Cynara cardunculus* L. subsp. *cardunculus*”, “Asparagus—*Asparagus officinalis* Baker”, “Bean, garden—*Phaseolus vulgaris* L.”, “Bean, lima—*Phaseolus lunatus* L.”, “Broadbean—*Vicia faba* L.”, “Broccoli—*Brassica oleracea* L. var. *botrytis* L.”, “Brussels sprouts—*Brassica oleracea* L. var. *gemmifera* DC.”, “Cardoon—*Cynara cardunculus* L. subsp. *cardunculus*”, “Celeriac—*Apium graveolens* L. var. *rapaceum* (Mill.) Gaud.”, “Chard, Swiss—*Beta vulgaris* L. subsp. *ciela* (L.) Koch”, “Citron—*Citrullus lanatus* (Thunb.) Matsum. and Nakai var. *citroides* (Bailey) Mansf.”, “Collards—*Brassica oleracea* L. var. *acephala* DC.”, “Corn, sweet—*Zea mays* L.”, “Corn salad—*Valerianella locusta* (L.) Laterrade”, “Cress, water—*Rorippa nasturtium-aquaticum* (L.) Hayek”, “Dandelion—*Taraxacum officinale* Wigg.”, “Endive—*Cichorium endivia* L.”, “Gherkin, West India—*Cucumis anguria* L.”, “Kale—*Brassica oleracea* L. var. *acephala* DC.”, “Kale, Chinese—*Brassica oleracea* L. var. *alboglabra* (Bailey) Musil”, “Kale, Siberian—*Brassica napus* L. var. *pabularia* (DC.) Reichb.”, “Melon—*Cucumis melo* L.”, “Mustard, India—*Brassica juncea* (L.) Czernj. and Coss.”, “Mustard, spinach—*Brassica perviridis* (Bailey) Bailey”, “Onion—*Allium cepa* L.”, “Parsnip—*Pastinaca sativa* L.”, “Pea—*Pisum sativum* L.”, “Pumpkin—*Cucurbita pepo* L., *C. moschata* (Duchesne) Poiret, and *C. maxima* Duchesne”, “Rhubarb—*Rheum rhabarbarum* L.”, “Rutabaga—*Brassica napus* L. var. *napobrassica* (L.) Reichb.”, “Spinach, New Zealand—*Tetragonia tetragonoides* (Pall.) Ktze.”, “Squash—*Cucurbita pepo* L., *C. moschata* (Duchesne) Poiret, and *C. maxima* Duchesne”, and “Watermelon—*Citrullus lanatus* (Thunb.) Matsum. and Nakai var. *lanatus*”.

F. In paragraph (i), adding the terms “Artichoke—*Cynara cardunculus* L.”, “Asparagus—*Asparagus officinalis* L.”,

“Bean, garden—*Phaseolus vulgaris* L. var. *vulgaris*”, “Bean, Lima—*Phaseolus lunatus* L.”, “Broadbean—*Vicia faba* L. var. *faba*”, “Broccoli—*Brassica oleracea* L. var. *italica* Plenck”, “Brussels sprouts—*Brassica oleracea* L. var. *gemmifera* Zenker”, “Cardoon—*Cynara cardunculus* L.”, “Celeriac—*Apium graveolens* L. var. *rapaceum* (Mill.) Gaudin”, “Chard, Swiss—*Beta vulgaris* L. subsp. *vulgaris*”, “Citron melon—*Citrullus lanatus* (Thunb.) Matsum. & Nakai var. *citroides* (L.H. Bailey) Mansf.”, “Collards—*Brassica oleracea* L. var. *viridis* L.”, “Corn, sweet—*Zea mays* L. subsp. *mays*”, “Corn salad—*Valerianella locusta* (L.) Laterr.”, “Cress, water—*Nasturtium officinale* R. Br.”, “Dandelion—*Taraxacum officinale* F.H. Wigg.”, “Endive—*Cichorium endivia* L. subsp. *endivia*”, “Gherkin, West India—*Cucumis anguria* L. var. *anguria*”, “Kale—*Brassica oleracea* L. var. *viridis* L.”, “Kale, Chinese—*Brassica oleracea* L. var. *alboglabra* (L.H. Bailey) Musil”, “Kale, Siberian—*Brassica napus* L. var. *pabularia* (DC.) Rchb.”, “Melon—*Cucumis melo* L. subsp. *melo*”, “Mustard, India—*Brassica juncea* (L.) Czern.”, “Mustard, spinach—*Brassica rapa* var. *perviridis* L.H. Bailey”, “Onion—*Allium cepa* L. var. *cepa*”, “Onion, bunching (see Onion, Welsh)”, “Parsnip—*Pastinaca sativa* L. subsp. *sativa*”, “Pea—*Pisum sativum* L. subsp. *sativum*”, “Pumpkin—*Cucurbita pepo* L., *C. moschata* Duchesne, and *C. maxima* Duchesne”, “Radicchio (see Chicory)”, “Rhubarb—*Rheum × hybridum* Murray”, “Rutabaga—*Brassica napus* L. var. *napobrassica* (L.) Rchb.”, “Spinach, New Zealand—*Tetragonia tetragonoides* (Pall.) Kuntze”, “Squash—*Cucurbita pepo* L., *C. moschata* Duchesne, and *C. maxima* Duchesne”, and “Watermelon—*Citrullus lanatus* (Thunb.) Matsum. & Nakai var. *lanatus*”.

G. In paragraph (w), removing the words “noxious weed” and adding the words “noxious-weeds” in their place every time they appear.

H. In paragraph (z), removing the word “Processing” and adding the word “Conditioning” in its place, and removing in the first sentence the word “processing” and adding the word “conditioning” in its place.

#### § 201.16 [Amended]

3. Section 201.16, in paragraph (b), is amended by removing the terms “*Borreria alata* (Aubl.) DC.”, “*Carthamus oxyacanthus* M. Bieb.”, “*Digitaria abyssinica* Stapf. (= *D. scalarum* (Schweinf.)”, “*Ipomoea triloba* L.”, “*Orobancha* spp.”, “*Rottboellia cochinchinensis* (Lour.) Clayton (= *R. exaltata* (L.) L.f.)” and adding in alphabetical order the terms “*Carthamus*

*oxyacantha* M. Bieb”, “*Digitaria scalarum* (Schweinfurth) Chiovenda”, “*Homeria* spp.”, “*oxyacantha*”, “*Rottboellia cochinchinensis* (Lour.) Clayton”, “*Senecio inaequidens* DC.”, “*Senecio madagascariensis* Poir.”, “*Solanum tampicense* Dunal” and “*Spermacoce alata* (Aublet) de Candolle”.

4. Section 201.20 is revised to read as follows:

**§ 201.20 Germination.**

The label shall show the percentage of germination for each kind or kind and variety or kind and type of kind and hybrid of agricultural seed present in excess of 5 percent or shown in the labeling to be present in a proportion of 5 percent or less.

**§ 201.31a [Amended]**

5. Section 201.31a is amended by adding the words “(Environmental Protection Agency Toxicity Category I)” after the word “substance” in paragraph (c)(1) and after the word “substances” in paragraph (c)(2) introductory text.

**§ 201.41 [Amended]**

6. In § 201.41, paragraph (a), the word “less” is removed and the word “fewer” is added in its place.

7. In § 201.48, the introductory text of paragraph (g) is amended by adding a new second sentence to read as follows:

**§ 201.48 Kind or variety considered pure seed.**

\* \* \* \* \*

(g) \* \* \* Seed units of smooth brome, fairway crested wheatgrass, standard crested wheatgrass, tall wheatgrass, intermediate wheatgrass, pubescent wheatgrass, western wheatgrass, fescues (*Festuca* spp.), and ryegrasses (*Lolium* spp.) if the caryopses are at least one-third the length of the palea; the caryopsis is measured from the base of the rachilla. \* \* \*

\* \* \* \* \*

8. Section 201.51 is amended by adding paragraph (a)(9) to read as follows:

**§ 201.51 Inert matter.**

\* \* \* \* \*

(a) \* \* \*

(9) Immature florets of smooth brome, fairway crested wheatgrass, standard crested wheatgrass, tall wheatgrass, intermediate wheatgrass, pubescent wheatgrass, western wheatgrass, fescues (*Festuca* spp.), and ryegrasses (*Lolium* spp.) in which the caryopses are less than one-third the length of the palea; the caryopsis is measured from the base of the rachilla.

\* \* \* \* \*

9. Section 201.65 is revised to read as follows:

**§ 201.65 Noxious-weed seeds in interstate commerce.**

Tolerances for rates of occurrence of noxious-weed seeds shall be recognized and shall be applied to the number of noxious-weed seeds found by analysis in the quantity of seed specified for noxious-weed seed determinations in § 201.46, except as provided in § 201.16(b). Rates per pound or ounce must be converted to the equivalent number of seeds found in § 201.46, Table 1, Minimum weight for noxious-weed seed examination (grams). Some tolerances are listed in the following table. The number found as represented by the label or test (Column X) will be considered within tolerance if not more than the corresponding numbers in Column Y are found by analysis in the administration of the Act. For numbers of seed greater than those in the table, a tolerance based on a degree of certainty of 5 percent (P = 0.05) can be calculated by the formula,  $Y = X + 1.65\sqrt{X} + 0.03$ , where X is the number of seeds represented by the label or test and Y is the maximum number within tolerance.

Number represented by label or test (X)	Maximum number within tolerances (Y)	Number represented by label or test (X)	Maximum number within tolerances (Y)	Number represented by label or test (X)	Maximum number within tolerances (Y)
0	2	34	43	68	81
1	2	35	44	69	82
2	4	36	45	70	83
3	5	37	46	71	84
4	7	38	47	72	85
5	8	39	49	73	86
6	9	40	50	74	87
7	11	41	51	75	89
8	12	42	52	76	90
9	13	43	53	77	91
10	14	44	54	78	92
11	16	45	55	79	93
12	17	46	56	80	94
13	18	47	58	81	95
14	19	48	59	82	96
15	21	49	60	83	97
16	22	50	61	84	98
17	23	51	62	85	99
18	24	52	63	86	101
19	25	53	64	87	102
20	27	54	65	88	103
21	28	55	67	89	104
22	29	56	68	90	105
23	30	57	69	91	106
24	31	58	70	92	107
25	32	59	71	93	108
26	34	60	72	94	109
27	35	61	73	95	110
28	36	62	74	96	111
29	37	63	75	97	112
30	38	64	76	98	114
31	39	65	78	99	115

Number represented by label or test	Maximum number within tolerances	Number represented by label or test	Maximum number within tolerances	Number represented by label or test	Maximum number within tolerances
(X)	(Y)	(X)	(Y)	(X)	(Y)
32	41	66	79	100	116
33	42	67	80	.....	.....

10. In § 201.74, paragraph (a) is amended by removing the last sentence, and paragraph (c) is amended by adding a sentence at the end of the paragraph to read as follows:

**§ 201.74 Labeling of all classes of certified seed.**

\* \* \* \* \*

(c) \* \* \* The seed lot number or other identification number, the kind, and variety name (if certified to variety) shall appear on the official label and/or directly on the container in a position to be viewed in conjunction with the official certification label.

\* \* \* \* \*

11. In § 201.75, paragraph (c), the last sentence is revised to read as follows:

**§ 201.75 Interagency certification.**

\* \* \* \* \*

(c) \* \* \* The seed lot number or other identification number, the kind, and variety name (if certified to variety) shall appear on the official label and/or directly on the container in a position to be viewed in conjunction with the official certification label.

Dated: December 10, 2010.

**Robert C. Keeney,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2010-31573 Filed 12-16-10; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2009-1185; Directorate Identifier 2009-NE-24-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Honeywell International LTS101 Series Turboshaft Engines and LTP101 Series Turboprop Engines**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** This supplemental NPRM revises an earlier proposed

airworthiness directive (AD), for Honeywell International LTS101-600A series and LTS101-700D-2 turboshaft engines, and LTP101-600A-1A and LTP101-700A-1A turboprop engines with power turbine blades, part number (P/N) 4-141-084-06, installed. That proposed AD would have required removing power turbine blades, P/N 4-141-084-06 from service, using a drawdown schedule specified in that proposed AD. That proposal was prompted by reports of fatigue cracks in the airfoil of the power turbine blade. This action revises the proposed rule by expanding and clarifying the applicability to include more engine models and power turbine blade P/Ns that could have the unsafe condition, and by clarifying the applicability by specifying power turbine rotor P/Ns instead of the blade P/Ns. The actions specified by this proposed AD are intended to prevent fracture of the power turbine blade airfoil, which could result in sudden loss of engine power and prevent continued safe flight or safe landing.

**DATES:** We must receive any comments on this proposed AD by February 15, 2011.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251. Contact Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072-2181; telephone (800) 601-3099 (U.S.A.) or (602) 365-3099 (International); or go to: <https://portal.honeywell.com/wps/portal/aero>, for a copy of the service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office,

FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712-4137; e-mail: [robert.baitoo@faa.gov](mailto:robert.baitoo@faa.gov); telephone (562) 627-5245; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2009-1185; Directorate Identifier 2009-NE-24-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

**Examining the AD Docket**

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