**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2001–SW–61–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter France Model AS 365 N3 and EC 155B Helicopters

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

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

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS 365 N3 and EC 155B helicopters that would have revised the Airworthiness Limitations section of the maintenance manuals by establishing a new service life limit for the Fenestron pitch change control rod (control rod). That proposal was prompted by a failure of a control rod on a prototype helicopter that led to a precautionary landing. This action revises the proposed rule by requiring replacement of the control rod with an improved reinforced steel airworthy control rod. The actions specified by this proposed AD are intended to prevent failure of the control rod, loss of control of the tail rotor, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before June 2, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–61–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5490, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–61–AD.'' The postcard will be date stamped and returned to the commenter.

### Discussion

A proposal to amend 14 CFR part 39 to add an AD for Eurocopter Model AS 365 N3 and EC 155B helicopters was published a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 2, 2002 (67 FR 61843). That NPRM proposed to reduce the current service life limit of 1,500 hours time in service (TIS) to 300 hours TIS for the control rod, part number (P/N) 365A33–6161–21, and proposed to require removing the control rod:

- Before further flight for helicopters with control rods having 700 or more hours TIS;
- Within 20 hours TIS for helicopters with control rods having 500 or more hours TIS, but less than 700 hours TIS; and
- Within 30 hours TIS for helicopters with control rods having more than 270 hours TIS and less than 500 hours TIS.

The proposed AD would also have required revising the Airworthiness Limitations section of the maintenance manuals to reflect the new retirement life of 300 hours TIS for the control rod. That NPRM was prompted by a failure of a control rod on a prototype helicopter that led to a precautionary landing. That condition, if not corrected, could result in loss of control of the tail rotor and subsequent loss of control of the helicopter.

Since issuing that NPRM, the manufacturer has made available a newly designed, reinforced steel control rod. Therefore, based upon the adoption of the improved-design control rod by the airworthiness authority of the country in which the product was manufactured, we are proposing to adopt a one-time replacement of the control rod rather than our original proposal to replace the control rod initially and thereafter at 300 hours TIS intervals. In addition, we have made other changes to the proposal.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The Direction Générale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS 365 N and Model EC 155B helicopters. The DGAC advises that a control rod failure occurred on a prototype aircraft and mandates removing control rod, P/N 365A33–6161–21, at certain times depending on the number of helicopter flight hours, and replacing it with a reinforced steel control rod, P/N 365A33–6214–20.

Eurocopter has issued Alert Telex No. 04A005 for Model EC 155B helicopters, and Alert Telex No. 01.00.55 for Model AS 365 N3 helicopters, both dated July 4, 2002. The alert telexes specify removing the control rod, P/N 365A33–6161–21, and replacing it with a reinforced steel control rod, P/N 365A33–6214–20. The DGAC classified these alert telexes as mandatory and issued AD No. 2002–472–057(A) for Model AS 365 N3 helicopters, and AD No. 2002–473–006(A) for Model EC 155B helicopters. Both AD's are dated September 18, 2002, and were issued to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

An unsafe condition is likely to exist or develop on other helicopters of these same type designs registered in the United States. Therefore, the proposed

AD would require removing the control rod, P/N 365A33–6161–21, and replacing it with a reinforced steel control rod, P/N 365A33–6214–20.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to remove and replace the control rod, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,677. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $8,391.

The regulations proposed herein would 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 proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 adding a new airworthiness directive to read as follows:

**Eurocopter France:** Docket No. 2001–SW–61–AD.

*Applicability:* Model AS 365 N3 helicopters with MOD 0764B39 (Quiet Fenestron) and Model EC 155B helicopters with tail rotor pitch change control rod (control rod), part number (P/N) 365A33–6161–21, installed, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the control rod, loss of control of the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the control rod, P/N 365A33–6161–21, and replace it with a reinforced steel control rod, P/N 365A33–6214–20, in accordance with the following table:

| Remove the control rod: | For control rods with: |
|---|---|
| Before further flight | 700 or more hours TIS. |
| Within 20 hours TIS | 500 or more hours TIS but less than 700 hours TIS. |
| Within 30 hours TIS | More than 270 hours TIS and less than 500 hours TIS. |

**Note 2:** Eurocopter Alert Telex No. 04A005, for Model EC 155B helicopters, and Alert Telex No. 01.00.55, for Model AS 365 N3 helicopters, both dated July 4, 2002, pertain to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

**Note 4:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 2002–472–057(A) for Model AS 365 N3 helicopters, and AD No. 2002–473–006(A) for Model EC 155B helicopters. Both AD's are dated September 18, 2002.

Issued in Fort Worth, Texas, on March 24, 2003.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 03–7596 Filed 3–31–03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 240

**[Release No. 34–47571; File No. S7–07–03]**

**RIN 3235–AI78**

## Request for Comment on the NYSE Petition Relating to Participant Fee Exemptions

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Concept release; request for comments.

**SUMMARY:** The Securities and Exchange Commission (''Commission'' or ''SEC'') seeks comment on a petition (''NYSE Petition'') submitted by the New York Stock Exchange, Inc. (''NYSE''), as a member of the Consolidated Tape Association (''CTA''). The NYSE Petition requests that the Commission amend the CTA Plan and the CQ Plan (collectively, the ''Plans'') to delete the provisions that exempt any participant in the Plans (''Participant'') from market data fees if the Participant receives the data for its internal use in regulating its market (''Participant Fee Exemptions''). The NYSE Petition would require all Participants to pay for CTA and CQS market data whether such data is received or used for regulation or other purposes. The Commission seeks comment on whether it should act on the NYSE Petition and the effects that eliminating the Participant Fee Exemptions would have on Participants in the National Market System.

**DATES:** Comments must be received on or before May 1, 2003.

**ADDRESSES:** To help us process and review your comments more efficiently,