(c) Refer the matter to a hearing pursuant to 5 U.S.C. 7117(b)(3) and/or (c)(5); or

(d) Take any other appropriate action.

§ 2424.32 Parties' responsibilities; failure to raise, support, and/or respond to arguments; failure to participate in conferences and/or respond to Authority orders.

(a) *Responsibilities of the exclusive representative.* The exclusive representative has the burden of raising and supporting arguments that the proposal or provision is within the duty to bargain, within the duty to bargain at the agency's election, or not contrary to law, respectively, and, where applicable, why severance is appropriate.

(b) *Responsibilities of the agency.* The agency has the burden of raising and supporting arguments that the proposal or provision is outside the duty to bargain or contrary to law, respectively, and, where applicable, why severance is not appropriate.

(c) *Failure to raise, support, and respond to arguments.* (1) Failure to raise and support an argument will, where appropriate, be deemed a waiver of such argument. Absent good cause:

(i) Arguments that could have been but were not raised by an exclusive representative in the petition for review, or made in its response to the agency's statement of position, may not be made in this or any other proceeding; and

(ii) Arguments that could have been but were not raised by an agency in the statement of position, or made in its reply to the exclusive representative's response, may not be raised in this or any other proceeding.

(2) Failure to respond to an argument or assertion raised by the other party will, where appropriate, be deemed a concession to such argument or assertion.

(d) *Failure to participate in conferences; failure to respond to Authority orders.* Where a party fails to participate in a post-petition conference pursuant to § 2424.23, a direction or proceeding under § 2424.31, or otherwise fails to provide timely or responsive information pursuant to an Authority order, including an Authority procedural order directing the correction of technical deficiencies in filing, the Authority may, in addition to those actions set forth in paragraph (c) of this section, take any other action that, in the Authority's discretion, is deemed appropriate, including dismissal of the petition for review, with or without prejudice to the exclusive representative's refiling of the petition for review, and granting the petition for review and directing bargaining and/or rescission of an agency head disapproval under 5 U.S.C. 7114(c), with or without conditions.

§ 2424.33—2424.39 [Reserved]

Subpart E—Decision and Order

§ 2424.40 Authority decision and order.

(a) *Issuance.* Subject to the requirements of this part, the Authority will expedite proceedings under this part to the extent practicable and will issue to the exclusive representative and to the agency a written decision, explaining the specific reasons for the decision, at the earliest practicable date. The decision will include an order, as provided in paragraphs (b) and (c) of this section, but, with the exception of an order to bargain, such order will not include remedies that could be obtained in an unfair labor practice proceeding under 5 U.S.C. 7118(a)(7).

(b) *Cases involving proposals.* If the Authority finds that the duty to bargain extends to the proposal, or any severable part of the proposal, then the Authority will order the agency to bargain on request concerning the proposal. If the Authority finds that the duty to bargain does not extend to the proposal, then the Authority will dismiss the petition for review. If the Authority finds that the proposal is bargainable only at the election of the agency, then the Authority will so state. If the Authority resolves a negotiability dispute by finding that a proposal is within the duty to bargain, but there are unresolved bargaining obligation dispute claims, then the Authority will order the agency to bargain on request in the event its bargaining obligation claims are resolved in a manner that requires bargaining.

(c) *Cases involving provisions.* If the Authority finds that a provision, or any severable part thereof, is not contrary to law, rule or regulation, or is bargainable at the election of the agency, the Authority will direct the agency to rescind its disapproval of such provision in whole or in part as appropriate. If the Authority finds that a provision is contrary to law, rule, or regulation, the Authority will dismiss the petition for review as to that provision.

§ 2424.41 Compliance.

The exclusive representative may report to the appropriate Regional Director an agency's failure to comply with an order, issued in accordance with § 2424.40, that the agency must upon request (or as otherwise agreed to by the parties) bargain concerning the proposal or that the agency must rescind its disapproval of a provision. The exclusive representative must report such failure within a reasonable period of time following expiration of the 60-day period under 5 U.S.C. 7123(a), which begins on the date of issuance of the Authority order. If, on referral from the Regional Director, the Authority finds such a failure to comply with its order, the Authority will take whatever action it deems necessary to secure compliance with its order, including enforcement under 5 U.S.C. 7123(b).

§§ 2424.42—2424.49 [Reserved]

Subpart F—Criteria for Determining Compelling Need for Agency Rules and Regulations

§ 2424.50 Illustrative criteria.

A compelling need exists for an agency rule or regulation concerning any condition of employment when the agency demonstrates that the rule or regulation meets one or more of the following illustrative criteria:

(a) The rule or regulation is essential, as distinguished from helpful or desirable, to the accomplishment of the mission or the execution of functions of the agency or primary national subdivision in a manner that is consistent with the requirements of an effective and efficient government.

(b) The rule or regulation is necessary to ensure the maintenance of basic merit principles.

(c) The rule or regulation implements a mandate to the agency or primary national subdivision under law or other outside authority, which implementation is essentially nondiscretionary in nature.

§§ 2424.51—2424.59 [Reserved]

Dated: November 25, 1998.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 98–31970 Filed 12–1–98; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–41–AD; Amendment 39–10921; AD 98–24–35]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS–350B, B1, B2, BA, C, D, D1, and AS 355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France Model AS–350B, B1, B2, BA, C, D, D1, and AS 355E, F, F1, F2, and N helicopters. This action requires measuring the tail rotor pitch change control rod (control rod) outboard spherical bearing for radial and axial play. If the play exceeds 0.008-inch, replacing the control rod with an airworthy control rod is required. This amendment is prompted by one accident and one incident. Investigations revealed a broken control rod on the helicopter involved in the accident and a severely worn control rod on the helicopter involved in the incident. This condition, if not corrected, could result in separation of the outboard spherical bearing ball from its outer race, rubbing of the body of the control rod against the tail rotor blade pitch horn clevis, failure of the control rod, and loss of control of the helicopter.

DATES: Effective December 17, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–41–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: This amendment was prompted by an accident, which occurred in November 1996, and an incident, which occurred in August 1997, involving Model AS–350B2 helicopters offshore over the Gulf of Mexico. The DGAC, although notified by the FAA of both the accident and incident, has not issued an AD on this subject. There were two other unconfirmed incidents cited by the National Transportation Safety Board (based on manufacturer's reports) involving the same control rod, part number (P/N) 350A33–2145–01.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that AD action is necessary for products of this type design certified for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS–350B, B1, B2, BA, C, D, D1, and AS 355E, F, F1, F2, and N helicopters of the same type design registered in the United States, this AD is being issued to prevent separation of the outboard spherical bearing ball from its outer race, rubbing of the body of the control rod against the tail rotor blade pitch horn clevis, failure of the control rod, and loss of control of the helicopter. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, measuring the control rod outboard spherical bearing radial and axial play is required within 50 hours time-in-service, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Cost Impact

The FAA estimates that 507 helicopters will be affected by this AD, that it will take approximately 1 work hour, and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,376 per helicopter. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,235,052 to perform the measurement and to replace both control rods on each helicopter in the fleet.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–41–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from 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.

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 adding a new airworthiness directive to read as follows:

AD 98–24–35 Eurocopter France: Amendment 39–10921. Docket No. 98–SW–41–AD.

Applicability: Eurocopter France Model AS–350B, B1, B2, BA, C, D, D1, and AS 355E, F, F1, F2, and N helicopters, with tail rotor pitch change control rod (control rod), part number (P/N) 350A33–2145–01, 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 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 use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 50 hours time-in-service (TIS) after the effective date of this AD, unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS.

To prevent separation of the outboard spherical bearing ball from its outer race, rubbing of the body of the control rod against the tail rotor blade pitch horn clevis, failure of the control rod, and loss of control of the helicopter, accomplish the following:

(a) Using a dial indicator, measure the axial and radial play of the outboard spherical bearing on the control rod. If the play exceeds 0.008-inch, replace the control rod with an airworthy control rod.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, 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, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

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

(d) This amendment becomes effective on December 17, 1998.

Issued in Fort Worth, Texas, on November 19, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–31858 Filed 12–1–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–111–AD; Amendment 39–10923; AD 98–24–14]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 340A and 414A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–24–14, which was sent previously to all known U.S. owners and operators of certain Cessna Aircraft Company (Cessna) Models 340A and 414A airplanes that could be equipped with any WYE tube, part number (P/N) 9910299–25 or P/N 9910299–26, in the engine exhaust system. This AD requires removing from service any P/N 9910299–25 or P/N 9910299–26 engine exhaust system WYE tube. The AD resulted from reports of five instances where the engine exhaust components in the WYE tube were manufactured without welds on critical parts that are installed adjacent to the firewall. The actions specified by this AD are intended to detect and correct exhaust leaks caused by nonwelded exhaust system components, which could result in aluminum fuel lines bursting with consequent fuel spillage, an airplane fire, and/or an explosion.

DATES: Effective December 21, 1998, to all persons except those to whom it was made immediately effective by priority letter AD 98–24–14, issued November 13, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before January 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 98–CE–111–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209, telephone: (316) 946–4143; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

On November 13, 1998, the FAA issued priority letter AD 98–24–14, which applies to certain Cessna Models 340A and 414A airplanes that are equipped with any WYE tube, part number (P/N) 9910299–25 or P/N 9910299–26, in the engine exhaust system. This AD requires removing from service any P/N 9910299–25 or P/N 9910299–26 engine exhaust system WYE tube.

These P/N 9910299–25 or P/N 9910299–26 WYE tubes may be replaced with any of the following:

—P/N 9910299–8 (for the P/N 9910299–25) or P/N 9910299–9 (for the P/N 9910299–26) WYE tubes; or

—any other FAA-approved engine exhaust system WYE tube that is not P/N 9910299–25 or P/N 9910299–26.

The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may check the maintenance records to determine whether any WYE tube, P/N 9910299–25 or P/N 9910299–26, has been installed in the engine exhaust system between May 8, 1998, and December 21, 1998. If one of these WYE tubes is not installed, the AD does not apply and the owner/operator must make an entry into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

The FAA's Determination

Since an unsafe condition has been identified that is likely to exist or develop in certain Cessna Models 340A and 414A airplanes of the same type design that are equipped with any WYE