

estimate (ETE) studies. This document provides guidance for addressing new EP requirements for nuclear power plants based on changes to EP regulations in 10 CFR 50.47 and Appendix E to Part 50 in the November 23, 2011, final rule. The NRC is issuing guidance for the development of ETES that recommends that licensees analyze several scenarios that consider all directions and distances within the emergency planning zone, time of day, day of week, adverse and normal weather conditions, and peak population special events. The ETE updates will support offsite protective action decision-making and evacuation planning efforts.

The NUREG/CR-7002 presents the NRC staff's first guidance addressing compliance with the newly-changed and newly-added part 50, Appendix E, Section IV, paragraphs 2 and 4-7. The first issuance of guidance on a changed rule provision (adopted in a rulemaking amending the rule provision) or newly-added provision of an existing rule does not constitute backfitting or raise issue finality concerns, inasmuch as the guidance must be consistent with the regulatory requirements in the newly-changed or newly-added rule provisions and the backfitting and issue finality considerations applicable to the newly-changed or newly-added rule provisions must logically apply to this guidance (76 FR 72560; November 23, 2011 at Page 72594). Therefore, issuance of guidance addressing the newly-changed and newly-added provisions of the amended rule does not constitute issuance of "changed" or "new" guidance within the meaning of the definition of "backfitting" in 10 CFR 50.109(a)(1). Similarly, the issuance of the guidance addressing the newly-changed and newly-added provisions of the amended rule, by itself, does not constitute an action inconsistent with any of the issue finality provisions in 10 CFR part 52. Accordingly, no further consideration of backfitting or issue finality is needed as part of the issuance of this guidance addressing compliance with the newly-changed provisions of Part 50, Appendix E, Section IV, paragraphs 2 and 4-7.

### III. Supplement 3 of NUREG-0654/FEMA-REP-1

The NRC and the Federal Emergency Management Agency (FEMA) are updating protective action recommendation guidance by issuing Supplement 3 of NUREG-0654/FEMA-REP-1. The updated Supplement 3 reflects insights gained through a study of the efficacy of the protective action strategy documented in NUREG/CR-

6953, "Review of NUREG-0654, Supplement 3, 'Criteria for Protective Action Recommendations for Severe Accidents'" (see <http://www.nrc.gov/reading-rm/doc-collections/nuregs/contract/cr6953/>). Supplement 3 of NUREG-0654/FEMA-REP-1 resulted from close coordination between FEMA and NRC staff as well as extensive input from stakeholders. The guidance incorporates the following elements:

1. Increased offsite response organization involvement in development of site specific protective action strategies;
2. Increased use of information from updated and current site specific evacuation time estimates;
3. Staged evacuation as the initial protective action at a General Emergency;
4. Increased use of shelter-in-place for certain scenarios; and
5. Guidance to improve communications with the public before and during an emergency.

Licensees should meet the requirements of Appendix E, Section IV, paragraph 3 as soon as practical following the 180-day period in Appendix E, Section IV, paragraphs 4 and 6.

Supplement 3 presents the NRC staff's first guidance addressing compliance with the newly-added part 50, Appendix E, Section IV, paragraph 3, which was part of the November 23, 2011, final rule. The first issuance of guidance on a newly-added provision of an existing rule does not constitute backfitting or raise issue finality concerns, inasmuch as the guidance must be consistent with the regulatory requirements in the newly-added rule provision and the backfitting and issue finality considerations applicable to the newly-added rule provision must logically apply to this guidance (76 FR 72560; November 23, 2011 at page 72594). Therefore, issuance of guidance addressing the newly-added provision of the amended rule does not constitute issuance of "changed" or "new" guidance within the meaning of the definition of "backfitting" in 10 CFR 50.109(a)(1). Similarly, the issuance of the guidance addressing the newly-added provision of the amended rule, by itself, does not constitute an action inconsistent with any of the issue finality provisions in 10 CFR Part 52. Accordingly, no further consideration of backfitting or issue finality is needed as part of the issuance of this guidance addressing compliance with the newly-added provision of Part 50, Appendix E, Section IV, paragraph 3.

Dated at Rockville, Maryland, this 23rd day of November, 2011.

For the Nuclear Regulatory Commission.

**Mark Thaggard,**

*Deputy Director for Emergency Preparedness, Division of Preparedness and Response, Office of Nuclear Security and Incident Response.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2011-0448; Directorate Identifier 2007-SW-51-AD; Amendment 39-16841; AD 2011-21-18]

**RIN 2120-AA64**

#### **Airworthiness Directives; Eurocopter France Model EC 120B Helicopters**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for the Eurocopter France Model EC 120B helicopters. This AD requires modifying the pilot cyclic control friction device by replacing a certain thrust washer with two thrust washers. This AD is prompted by an incident in which the pilot encountered a sudden restriction of the cyclic control movement during flight. The actions specified by this AD are intended to prevent jamming of a pilot cyclic control stick and subsequent loss of control of the helicopter.

**DATES:** Effective December 20, 2011.

**ADDRESSES:** You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527.

*Examining the Docket:* You may examine the docket that contains this AD, any comments, and other information on the Internet at <http://www.regulations.gov> or at the Docket Operations office, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5130, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:**

## Discussion

On April 27, 2011, we issued a Notice of Proposed Rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to Eurocopter France Model EC 120B helicopters. That NPRM was published in the **Federal Register** on May 13, 2011 (76 FR 27952). That NPRM proposed to modify the pilot cyclic control friction device by replacing a certain thrust washer with two thrust washers. The proposed AD was prompted by an incident in which the pilot encountered a sudden restriction of the cyclic control movement during flight.

The Direction Generale de l'Aviation Civile France (DGAC), which is the aviation authority for France, has issued French AD No. F-2005-175, dated October 26, 2005, on behalf of the European Aviation Safety Agency (EASA), the Airworthiness Authority of the State of Design for the affected helicopters, to correct an unsafe condition for the Eurocopter France Model EC 120B helicopters.

## Related Service Information

Eurocopter has issued Alert Service Bulletin No. 67A011, Revision 1, dated October 24, 2005 (ASB), which specifies a modification to preclude the risk that the pilot cyclic control stick will jam. The modification consists of replacing the existing single-piece thrust washer, part number (P/N) C671A1006201, with two thrust washers, P/N C671A1018201 and P/N C671A1019201. The DGAC classified this alert service bulletin as mandatory and issued AD No. F-2005-175, dated October 26, 2005, to ensure the continued airworthiness of these helicopters.

## FAA's Evaluation and Unsafe Condition Determination

This product has been approved by the aviation authority of France and is evaluated for operation in the United States. Pursuant to our bilateral agreement with France, the DGAC, on behalf of the EASA, their technical representative, has notified us of the unsafe condition described in the DGAC AD. We are issuing this AD because we evaluated all information provided by the DGAC and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires replacing a single-piece thrust washer, P/N C671A1006201, with two thrust washers, P/N C671A1018201 and P/N C671A1019201, to prevent the jamming of the pilot cyclic control stick.

## Differences Between This AD and the DGAC AD

The DGAC AD requires compliance with the ASB no later than December 31, 2005. Our AD requires compliance within 30 days after the effective date of the AD.

## Comments

By publishing the NPRM (76 FR 27952, May 13, 2011), we gave the public an opportunity to participate in developing this AD. However, we received no comment on the NPRM or on our determination of the cost to the public. Therefore, based on our review and evaluation of the available data, we have determined that air safety and the public interest require adopting the AD as proposed.

## Costs of Compliance

We estimate that this AD affects 114 helicopters of U.S. registry and the required actions will take approximately 3 work hours per helicopter to accomplish at an average labor rate of \$85 per work hour. Required parts cost approximately \$50 per helicopter. Based on these figures, we estimate the total cost impact of this AD on U.S. operators to be \$34,770 for the entire fleet, or \$305 per helicopter, to replace the single thrust washer with two thrust washers.

## Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

*For the reasons discussed above, I certify that the 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. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. 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. We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

## Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I,

section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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:

#### 2011-21-18 Eurocopter France:

Amendment 39-16841; Docket No. FAA-2011-0448; Directorate Identifier 2007-SW-51-AD.

**Applicability:** Model EC 120B helicopters, serial numbers up to and including 1385, with a thrust washer, part number (P/N) C671A1006201, installed on the pilot cyclic control stick friction device; and a pilot cyclic stick, P/N C671A1007101, P/N C671A1007102, or C671A1003102, installed, certificated in any category.

**Compliance:** Required within 30 days, unless accomplished previously.

To prevent jamming of a pilot cyclic control stick and subsequent loss of control of the helicopter, accomplish the following:

- (a) Remove the pilot cyclic control stick; replace the thrust washer, P/N C671A1006201, with two thrust washers, P/N C671A1018201 and P/N C671A1019201; reinstall the pilot cyclic control stick; and perform a functional test of the cyclic control.

- (b) To request a different method of compliance or a different compliance time

for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, Rotorcraft Directorate, FAA, ATTN: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, ASW-111, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5130, fax (817) 222-5961, for information about previously approved alternative methods of compliance.

(c) The Joint Aircraft System/Component (JASC) Code is 2700: Flight Control System.

(d) This amendment becomes effective on December 20, 2011.

**Note:** The subject of this AD is addressed in Direction Generale de l'Aviation Civile (France) AD No. F-2005-175, dated October 26, 2005, and Eurocopter Alert Service Bulletin No. 67A011, Revision 1, dated October 24, 2005.

Issued in Fort Worth, Texas, on October 5, 2011.

**Kim Smith,**

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2011-30939 Filed 12-2-11; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9560]

RIN 1545-BE89

#### Targeted Populations Under Section 45D(e)(2)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to how an entity serving certain targeted populations can meet the requirements to be a qualified active low-income community business for the new markets tax credit. The regulations reflect changes to the law made by the American Jobs Creation Act of 2004. The regulations will affect certain taxpayers claiming the new markets tax credit.

**DATES:** *Effective Date:* These regulations are effective on December 5, 2011.

*Applicability Dates:* For dates of applicability, see § 1.45D-1(h)(3).

**FOR FURTHER INFORMATION CONTACT:** Julie Hanlon Bolton, (202) 622-3040 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document amends 26 CFR part 1 to provide rules relating to certain targeted populations under section 45D(e)(2). On May 24, 2005, the

Community Development Financial Institutions Fund published an advance notice of proposed rulemaking (ANPRM) (70 FR 29658) to seek comments from the public with respect to how targeted populations may be treated as eligible low-income communities under section 45D(e)(2). In response to the ANPRM, the IRS received various suggestions relating to the definition of the term *targeted populations* and proposing amendments to the requirements to be a qualified active low-income community business under § 1.45D-1. On June 30, 2006, the IRS and Treasury Department released Notice 2006-60 (2006-2 CB 82), which announced that § 1.45D-1 would be amended to provide rules relating to how an entity meets the requirements to be a qualified active low-income community business when its activities involve certain targeted populations under section 45D(e)(2). On September 24, 2008, a notice of proposed rulemaking (NPRM) (REG-142339-05) was published in the **Federal Register** (73 FR 54990). Written and electronic comments responding to the proposed regulations were received and a public hearing was held on January 22, 2009. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision.

##### General Overview

Section 45D(a)(1) provides a new markets tax credit on certain credit allowance dates described in section 45D(a)(3) with respect to a qualified equity investment in a qualified community development entity (CDE) described in section 45D(c).

Section 45D(b)(1) provides that an equity investment in a CDE is a *qualified equity investment* if, among other requirements: (A) The investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash; (B) substantially all of the cash is used by the CDE to make qualified low-income community investments; and (C) the investment is designated for purposes of section 45D by the CDE.

Under section 45D(b)(2), the maximum amount of equity investments issued by a CDE that may be designated by the CDE as qualified equity investments shall not exceed the portion of the new markets tax credit limitation set forth in section 45D(f)(1) that is allocated to the CDE by the Secretary under section 45D(f)(2).

Section 45D(c)(1) provides that an entity is a CDE if, among other requirements, the entity is certified by the Secretary as a CDE.

Section 45D(d)(1) provides that the term *qualified low-income community investment* means: (A) Any capital or equity investment in, or loan to, any qualified active low-income community business (as defined in section 45D(d)(2)); (B) the purchase from another CDE of any loan made by the entity that is a qualified low-income community investment; (C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities; and (D) any equity investment in, or loan to, any CDE.

Under section 45D(d)(2)(A), a qualified active low-income community business is any corporation (including a nonprofit corporation) or partnership if for such year, among other requirements, (i) At least 50 percent of the total gross income of the entity is derived from the active conduct of a qualified business within any low-income community, (ii) a substantial portion of the use of the tangible property of the entity (whether owned or leased) is within any low-income community, and (iii) a substantial portion of the services performed for the entity by its employees are performed in any low-income community.

Under section 45D(d)(3), with certain exceptions, a qualified business is any trade or business. The rental to others of real property is a qualified business only if, among other requirements, the real property is located in a low-income community.

Section 221(a) of the American Jobs Creation Act of 2004 (Act) (Pub. L. 108-357, 118 Stat. 1418) amended section 45D(e)(2) to provide that the Secretary shall prescribe regulations under which one or more targeted populations (within the meaning of section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20))) may be treated as low-income communities. The regulations shall include procedures for determining which entities are qualified active low-income community businesses with respect to those populations. Section 221(c)(1) of the Act provides that the amendment made by section 221(a) of the Act shall apply to designations made by the Secretary of the Treasury after October 22, 2004, the date of enactment of the Act.

The term *targeted population*, as defined in 12 U.S.C. 4702(20) and 12 CFR 1805.201, means individuals, or an identifiable group of individuals, including an Indian tribe, who (A) are low-income persons; or (B) otherwise lack adequate access to loans or equity