

and when appropriate under this Statutory mandate.

Some circumstances warrant taking the time to reach out to the labor-management relations community for comment before issuing such a policy or guidance. But that is not always the case. Here, for example, seeking comment from the labor-management relations community will not change the fact that Authority precedent on the use of official time for lobbying activities rests upon interpretations of the Statute which can only be described as strained and contorted and which run counter to the plain language of an Executive Order² and the Statute.³

Under these circumstances, seeking and waiting for comment serves no useful purpose.

The Authority and the U.S. Court of Appeals for the District of Columbia, have held that “official time may only be granted to the extent that it is consistent with all ‘applicable laws and regulations.’”⁴ The Authority has also held that regulations issued pursuant to statutory authority are to be accorded the force and effect of law.⁵ Because E.O. 13,837 was issued pursuant to the President’s statutory authority to regulate the executive branch,⁶ it is accorded the force and effect of law and affects the negotiability of proposals covered by the Statute.

As relevant here, E.O. 13,837 states that “[e]mployees may not engage in lobbying activities during paid time, except in their official capacities as an employee,”⁷ and it directs agencies to deny official time for “lobbying activities in violation of section 1913 of title 18, United States Code.”⁸ This language closely parallels the plain language of 18 U.S.C. 1913 which prohibits the use of appropriated funds to pay any federal employee for lobbying activities. Specifically, section 1913 states that appropriated funds may not be used “directly or indirectly to pay for any [activities] . . . intended or designed to influence in any manner a Member of Congress . . . or an official of any government, to favor, adopt, or

oppose, by vote or otherwise, any legislation, law ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation.” Therefore, in reading E.O. 13,837 and section 1913 together, it is clear that official time may not be granted for any activities “intended or designed to influence in any manner a Member of Congress . . . to favor, adopt, or oppose, by vote or otherwise, any legislation, law ratification, policy, or appropriation.”

At first glance, it would appear that Executive Order 13,837 rests on an interpretation of 18 U.S.C. 1913 and that section 1913 provides an exception for appropriated money to be used for lobbying if there is an “express authorization by Congress.”⁹ On this point, the U.S. Department of Justice, Office of Legal Counsel (OLC), has issued two opinions.¹⁰ Those opinions provide valuable perspective on the interplay between 18 U.S.C. 1913 and section 7102 but are flawed insofar as they interpret our Statute. According to OLC, Congress provided express authorization in section 7102 for direct (but not “grass roots”¹¹) lobbying—“present[ing] the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities.”¹² However, those conclusions were premised on interpretations of sections 7102 and 7131 (not 18 U.S.C. 1913) and Authority precedent that I would jettison¹³ and are thus entitled to little deference in light of E.O. 13,837.

Under these circumstances, I disagree that any valuable purpose is served or insights are to be gained by seeking written comments on this question.

I would issue a general statement of policy that the plain language of E.O. 13,837 and 18 U.S.C. 1913 limits the scope of section 7131(d) of the Statute, such that, a proposal that would grant the use of official time for lobbying activities is nonnegotiable because it is contrary to law. To the extent the cases cited above support the notion that proposals permitting the use of official time for lobbying activities are

negotiable, I would conclude that they are not consistent with the E.O. and are therefore no longer good law.

[FR Doc. 2020–05992 Filed 3–24–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0270; Product Identifier 2019–SW–018–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (Bell) Model 205B helicopters. This proposed AD was prompted by flight testing and fatigue analysis results. This proposed AD would require reducing the life limit of certain tail rotor (T/R) blades and re-identifying them with a new part number (P/N). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 11, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

For service information identified in this NPRM, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817–280–3391; fax 817–280–6466; or at <https://www.bellcustomer.com>. You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

² Exec. Order No. 13,837, *Ensuring Transparency, Accountability, and Efficiency in Taxpayer-Funded Union Time Use*, 83 FR 25,335, 25,337 (May 28, 2018) (E.O. 13,837).

³ Section 7131.

⁴ *Assoc. of Civilian Technicians, Tony Kempenich Mem'l Chapter 21 v. FLRA*, 269 F.3d 1119, 1122 (DC Cir.) (2001) (quoting *NFFE Local 2015*, 41 FLRA 1158, 1185 (1991)).

⁵ *NFFE, Local 15*, 30 FLRA 1046, 1070 (1988).

⁶ E.O. 13,837, 83 FR at 25,335 (citing to 5 U.S.C. 7301). 5 U.S.C. 7301 provides that “[t]he President may prescribe regulations for the conduct of employees in the executive branch.”

⁷ E.O. 13,837, 83 FR at 25,337.

⁸ *Id.* at 25,338.

⁹ 18 U.S.C. 1913; see also *2005 Memo*, 29 Op. O.L.C. at 181 (stating that 18 U.S.C. 1913 only applies “in the absence of express authorization by Congress”).

¹⁰ See *Application of 18 U.S.C. 1913 to “Grass Roots” Lobbying*, 29 Op. O.L.C. 179 (2005) (*2005 Memo*); *Constraints Imposed by 18 U.S.C. 1913 on Lobbying Efforts*, 13 Op. O.L.C. 300 (1989).

¹¹ *2005 Memo*, 29 Op. O.L.C. at 181.

¹² *2005 Memo* at 184–85 (quoting section 7102).

¹³ See fn. 8.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0270; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Kueth Harmon, Safety Management Program Manager, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817-222-5198; email kueth.harmon@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2020-0270; Product Identifier 2019-SW-018-AD" at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments received, without change, to <https://www.regulations.gov>, including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The FAA proposes to adopt a new AD for Bell Model 205B helicopters with a T/R blade P/N 212-010-750-009 or 212-010-750-105 installed. Flight testing and fatigue analysis by Bell indicates that these part-numbered T/R blades sustain greater loads when installed on Bell Model 205B helicopters compared to their use on other model helicopters. The proposed actions are intended to prevent a T/R blade remaining in service beyond its fatigue life, resulting in failure of the T/R blade and subsequent loss control of the helicopter.

Related Service Information

The FAA reviewed Bell Helicopter Textron Alert Service Bulletin No. 205B-98-27, dated June 1, 1998, for

Model 205B helicopters. This service information specifies reducing the life limit of T/R blade P/N 212-010-750-009 and 212-010-750-105 to 2,500 hours TIS and assigning these blades a new dash number by vibro-etching a new P/N on the T/R blade data and annotating the historical record card.

FAA's Determination

The FAA is proposing this AD after evaluating all the relevant information and determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require, before further flight, reducing the life limit of each affected T/R blade from 5,000 hours TIS to 2,500 hours TIS; re-identifying the T/R blade P/N on its data plate by vibro-etching to change the last three digits of the existing P/N; creating a component history card or equivalent record; and revising the Airworthiness Limitations section of the maintenance manual for your helicopter to annotate the new P/N and revised life limit. Finally, this proposed AD would prohibit installing any affected T/R blade that has not met the AD requirements.

Costs of Compliance

The FAA estimates that this proposed AD would affect 2 helicopters of U.S. registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at \$85 per work-hour.

Determining the total hours TIS of a T/R blade, re-identifying the P/N, and updating the helicopter records would take about 1 work-hour for each T/R blade, for an estimated cost of \$170 per helicopter and \$340 for the U.S. fleet.

Replacing a T/R blade would take about 8 work-hours and parts would cost about \$29,110 for an estimated cost of \$29,790 per T/R blade.

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.

The FAA is 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.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska, and
- (3) 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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bell Helicopter Textron, Inc.: Docket No. FAA-2020-0270; Product Identifier 2019-SW-018-AD.

(a) Comments Due Date

The FAA must receive comments by May 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Helicopter Textron, Inc. Model 205B helicopters, certificated in any category, with a tail rotor (T/R) blade

part number (P/N) 212-010-750-009 or 212-010-750-105 installed.

(d) Subject

Joint Aircraft System Component (JASC)
Code: 6410, Tail Rotor Blades.

(e) Unsafe Condition

This AD was prompted by flight testing and fatigue analysis that indicates that these part-numbered T/R blades sustain greater loads when used on Bell Model 205B helicopters compared to their use on other model helicopters. The FAA is issuing this AD to prevent a T/R blade from remaining in service beyond its fatigue life, resulting in failure of the T/R blade and subsequent loss control of the helicopter.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Before further flight, determine the total hours time-in-service (TIS) of each T/R blade and remove from service each T/R blade that has accumulated 2,500 or more hours TIS. For each T/R blade that has accumulated less than 2,500 hours TIS, do the following:

(i) Re-identify the P/N on the T/R blade data plate by vibro-etching to change the last three digits of the existing P/N as follows:

(A) For T/R blade P/N 212-010-750-009, re-identify the P/N as 212-010-750-111.

(B) For T/R blade P/N 212-010-750-105, re-identify the P/N as 212-010-750-109.

(ii) Create a component history card or equivalent record to reflect the change in P/N for each T/R blade, and establish a life limit of 2,500 hours TIS.

(iii) Revise the Airworthiness Limitations Section of the maintenance manual or the Instructions for Continued Airworthiness for your helicopter to establish a life limit of 2,500 hours TIS for each T/R blade P/N 212-010-750-111 and 212-010-750-109.

(2) Thereafter, except as provided in paragraph (i) of this AD, no alternative life limits may be approved for T/R blade P/N 212-010-750-009 or 212-010-750-105.

(3) After the effective date of this AD, do not install a T/R blade P/N 212-010-750-009 or 212-010-750-105 on any Model 205B helicopter unless the part number has been changed and the life limit reduced in accordance with this AD.

(h) Special Flight Permit

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, DSCO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: 9-ASW-190-COS@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector,

or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Kuethe Harmon, Safety Management Program Manager, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817-222-5198; email kuethe.harmon@faa.gov.

(2) For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817-280-3391; fax 817-280-6466; or at <https://www.bellcustomer.com>. You may view service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

Issued on March 13, 2020.

Gaetano A. Sciortino,

*Deputy Director for Strategic Initiatives,
Compliance & Airworthiness Division,
Aircraft Certification Service.*

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

**[Docket No. FAA-2019-0111; Airspace
Docket No. 19-ASO-23]**

RIN 2120-AA66

**Proposed Establishment of Restricted
Area R-5306F; Cherry Point, NC**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to establish restricted area R-5306F at Marine Corps Air Station (MCAS) Cherry Point, NC. R-5306F would extend from flight level (FL) 180 to FL 290. The proposed restricted area would overlie the existing restricted area R-5306A, and the adjacent Core Military Operations Area (MOA). Due to altitude constraints, the existing restricted airspace structure around MCAS Cherry Point cannot fully support the training requirements for current legacy aircraft as well as 4th and 5th generation aircraft such as the F-35. In conjunction with R-5306A, the proposed restricted area would provide realistic training to enable pilots and aircrews to counter evolving threat nation warfare anti-aircraft capabilities.

DATES: Comments must be received on or before May 11, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of

Transportation, Docket Operations, M-30, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001; telephone: (202) 366-9826. You must identify FAA Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23, at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>.

Comments on environmental and land use aspects to should be directed to: Carmen Lombardo, Natural Resource Manager, MCAS Cherry Point, NC 28533; telephone: (252) 466-5870; email: carmen.lombardo@usmc.mil.

FOR FURTHER INFORMATION CONTACT:

Sean Hook, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish restricted area airspace at Cherry Point, NC, to enhance aviation safety and accommodate essential U.S. Marine Corps training activities.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2019-0111; Airspace Docket No. 19-ASO-23) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and