

disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

#### The Petition

Ellen C. Ginsburg, vice president, general counsel, and secretary, NEI, submitted a PRM dated January 25, 2013 (ADAMS Accession No. ML13035A186), requesting that the NRC amend its personnel access authorization regulations to ensure that denials cannot be overturned by a third party. The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under § 2.802 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Petition for rulemaking," and the petition has been docketed as PRM-73-16. The NRC is requesting public comment on the petition for rulemaking.

#### The Petitioner

The petition states that NEI "is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues." The petition further states that NEI "endeavors to bring matters to the NRC's attention that might frustrate the agency's statutory and regulatory objectives." The NEI believes that the issue raised in this petition is a generic matter and "has the potential to affect the ability of NRC reactor licensees to control access to the protected and vital areas of their sites."

#### Discussion of the Petition

The NRC's regulations at 10 CFR part 73, "Physical protection of plants and materials," require a nuclear power plant to have access authorization programs in place to evaluate an employee's suitability for unescorted access to the plant. Specifically, 10 CFR 73.56(c) contains the requirement that all licensees have access authorization programs in place that provide a high degree of assurance that all employees granted unescorted access to nuclear power plants "are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage." Regulations at 10 CFR 73.56(d) require licensees to perform background investigations of those employees seeking unescorted access, and

regulations at 10 CFR 73.56(l) requires licensees to implement a notification and review process for those employees who are denied unescorted access. For the employee whose denial may provide an adverse impact on employment, the review "must provide for an impartial and independent internal management review."

The petitioner states that the United States Court of Appeals for the 7th Circuit decided, in *Exelon Generation Company, LLC v. Local 15, International Brotherhood of Electrical Workers*, 676 F.3d 566 (7th Cir. Ill. 2012), that the NRC's access authorization regulations do not prohibit the use of third-party arbitrators in cases where employees have been denied access. The petitioner states that one effect of the court's decision is that a person who has been determined not to be trustworthy and reliable by a licensee and denied unescorted access to a nuclear power plant could have that determination overturned by a third party. Therefore, according to the petitioner, the 7th Circuit court's decision "undermines the NRC's ability to demonstrate that adequate protection is assured if licensees are impeded in their ability to comply with NRC regulations to maintain 'high assurance'."

Furthermore, the petitioner believes that the 7th Circuit court's conclusion that NRC regulations do not explicitly prohibit third-party arbitration of denials of unescorted access could have been prevented had the regulations contained more "clarity regarding the proper scope of the review process and the ultimate responsibility of the licensee for plant safety and security." The petitioner states that in order to provide the necessary clarity, the NRC regulations should be modified to "expressly prohibit the restoration or grant of unescorted access by third parties (including arbitrators), to remove all doubt that the licensee is solely responsible for making final unescorted access decisions, and to prescribe a clearly-articulated scope of review for third-party reviewers." The petitioner provided proposed modifications to the regulations at 10 CFR 73.56(a)(4), 10 CFR 73.56(a)(5), and 10 CFR 73.56(l), that the petitioner believes would clarify the process and limit the scope on third-party reviews of access denials, and strengthen the authority of licensees to approve or deny unescorted access to nuclear power plants.

Dated at Rockville, Maryland, this 16th day of April 2013.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook**,  
Secretary of the Commission.

[FR Doc. 2013-09375 Filed 4-19-13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2011-0153; Directorate Identifier 2010-NM-022-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain The Boeing Company Model 777-200 and -300 series airplanes. The proposed AD would have required removing the electrical system control panel, changing the wiring, installing a new electrical power control panel, and installing new operational software for the electrical load management system and configuration database. Since the proposed AD was issued, we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM. Accordingly, the proposed AD is withdrawn.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office,

1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6467; fax: 425-917-6590; email: [raymont.mei@faa.gov](mailto:raymont.mei@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model 777-200 and -300 series airplanes. That NPRM published in the **Federal Register** on March 8, 2011 (76 FR 12617). The NPRM would have required removing the electrical system control panel, changing the wiring, installing a new electrical power control panel, and installing new operational software for the electrical load management system and configuration database. The NPRM resulted from an in-flight entertainment (IFE) systems review. The proposed actions were intended to ensure that the flightcrew is able to turn off electrical power to the IFE system and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

##### Actions Since NPRM (76 FR 12617, March 8, 2011) Was Issued

Since we issued the NPRM (76 FR 12617, March 8, 2011), we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM.

##### FAA's Conclusions

Upon further consideration, we have determined that the unsafe condition still exists, however, we intend to address it with new AD rulemaking. Accordingly, the NPRM (76 FR 12617, March 8, 2011) is withdrawn.

Withdrawal of the NPRM (76 FR 12617, March 8, 2011) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

#### Regulatory Impact

Since this action only withdraws an NPRM (76 FR 12617, March 8, 2011), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

#### List of Subjects in 14 CFR Part 39

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

#### The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA-2011-0153, Directorate Identifier 2010-NM-022-AD, which published in the **Federal Register** on March 8, 2011 (76 FR 12617).

Issued in Renton, Washington, on February 1, 2013.

#### Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013-09418 Filed 4-19-13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2013-0353; Directorate Identifier 2008-SW-029-AD]

RIN 2120-AA64

#### Airworthiness Directives; Eurocopter France Helicopters

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Eurocopter France (Eurocopter) Model AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters to require inspecting for the presence of blind holes in the tail gearbox (TGB) attachment fittings, and, if they are missing, installing an additional washer under the head of the attachment bolt until the attachment fitting is replaced with an airworthy attachment fitting. This proposed AD was prompted by the discovery of interference between the TGB aft attachment bolt and the structure fitting, caused by a manufacturing anomaly that omitted the blind hole required for proper fit of the attachment bolt. This condition, if not detected and corrected, could result in insufficient tightening of the TGB

casing, damage to the TGB attachment, cracking under the attachment bolt, and loss of the TGB, resulting in loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by June 21, 2013.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* 202-493-2251.

- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

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

#### 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 economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641-0000 or (800) 232-0323; fax (972) 641-3775; or at <http://www.eurocopter.com/techpub>. You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222-5110; email [gary.b.roach@faa.gov](mailto:gary.b.roach@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this