§ 2610.102 Purpose.

* * * An eligible party may receive an award when it prevails over the Office, unless the Office's position in the proceeding was substantially justified or special circumstances make an award unjust. An eligible party may also receive an award when the demand of the Office is substantially in excess of the decision in the adversary adjudication and is unreasonable when compared with such decision, under the facts and circumstances of the case, unless the party has committed a willful violation of law or otherwise acted in bad faith or special circumstances make an award unjust. * * *

3. Section 2610.105 is amended by removing the word ''and'' at the end of paragraph (b)(4), by removing the word ''any'' at the beginning of paragraph (b)(5) and adding in its place the word ''Any,'' by removing the period at the end of paragraph (b)(5) and adding in its place a semicolon followed by the word ''and,'' and by adding a new paragraph (b)(6) to read as follows:

§ 2610.105 Eligibility of applicants.

* * * * *

(b)(6) For purposes of § 2610.106(b), a small entity as defined in 5 U.S.C. 601.

* * * * *

4. Section 2610.106 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, by revising newly redesignated paragraph (d), and by adding a new paragraph (b) to read as follows:

§ 2610.106 Standards for awards.

* * * * *

(b) If, in a proceeding arising from an Office action to enforce an applicant's compliance with a statutory or regulatory requirement, the demand of the Office is substantially in excess of the decision in the proceeding and is unreasonable when compared with that decision under the facts and circumstances of the case, the applicant shall be awarded the fees and other expenses related to defending against the excessive demand, unless the applicant has committed a willful violation of law or otherwise acted in bad faith or special circumstances make an award unjust. The burden of proof that the demand of the Office is substantially in excess of the decision and is unreasonable when compared with such decision is on the applicant. As used in this paragraph, ''demand'' means the express demand of the Office which led to the adversary adjudication, but it does not include a recitation by the Office of the maximum statutory penalty in the administrative complaint, or elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.

* * * * *

(d) An award under this part will be reduced or denied if the Office's position was substantially justified in law and fact, if the applicant has unduly or unreasonably protracted the proceeding, if the applicant has falsified the application (including documentation) or net worth exhibit, or if special circumstances make the award unjust.

§ 2610.107 [Amended]

5. Section 2610.107 is amended by removing the dollar amount ''$75.00'' in the first sentence of paragraph (b) and adding in its place the dollar amount ''$125.00.''

§ 2610.108 [Amended]

6. Section 2610.108 is amended by:

a. Revising the heading to read ''Rulemaking on maximum rate for attorney and agent fees.'';

b. Amending the first sentence of paragraph (a) by adding the words ''or agents'' between the words ''attorneys'' and ''qualified'' in the parentheses, adding the words ''or agent'' between the words ''attorney'' and ''fees'' outside the parentheses, and by removing the dollar amount ''$75.00'' and adding in its place the dollar amount ''$125.00.''; and

c. Amending the first sentence of paragraph (b) by adding the words ''or agent'' between the words ''attorney'' and ''fees''.

7. Section 2610.201 is amended by removing the last sentence of paragraph (f) and by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 2610.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. Unless the applicant is an individual, the application shall further state the number of employees of the applicant and describe briefly the type and purpose of its organization or business. The application shall also:

(1) Show that the applicant has prevailed and identify the position of the Office in the proceeding that the applicant alleges was not substantially justified; or

(2) Show that the demand by the Office in the proceeding was substantially in excess of, and was unreasonable when compared with, the decision in the proceeding.

(b) The application shall also include, for purposes of § 2610.106 (a) or (b), a statement that the applicant's net worth does not exceed $2,000,000 (for individuals) or $7,000,000 (for all other applicants, including their affiliates) or alternatively, for purposes of § 2610.106(b) only, a declaration that the applicant is a small entity as defined in 5 U.S.C. 601. However, an applicant may omit the statement concerning its net worth if:

* * * * *

8. Section 2610.204 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 2610.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding. An application may also be filed when the demand of the Office is substantially in excess of the decision in the proceeding and is unreasonable when compared with such decision. In no case may an application be filed later than 30 days after the Office of Government Ethics' final disposition of the proceeding.

* * * * *

(c) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed or has been subjected to a demand from the Office substantially in excess of the decision in the adversary adjudication and unreasonable when compared to that decision, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy. * * *

[FR Doc. 98–6986 Filed 3–17–98; 8:45 am]

BILLING CODE 6345–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–34–AD; Amendment 39–10411; AD 98–06–32]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332C, L, and L1 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 332C, L, and L1 helicopters. This action requires greasing and inspecting main rotor blade horn eye bolts (eye bolts), and replacing certain eye bolt bearings (bearings) with airworthy bearings. This amendment is prompted by one report of abnormally high amplitude inflight vibrations due to failure of a bearing. The actions specified in this AD are intended to prevent failure of a bearing, due to premature wear caused by an improper axial pre-load, which could result in loss of main rotor blade pitch control and subsequent loss of control of the helicopter.

DATES: Effective April 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before May 18, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–34–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model AS 332C, L, and L1 helicopters. The DGAC advises that, within 50 hours, for eye bolts that were installed before September 1, 1997 and have less than 500 hours time-in-service (TIS), the bearings should be greased and inspected, and removed if (1) the expelled grease has a ''blackish'' color or contains metal particles; or (2) the rotational torque exceeds 30,000 millimeters-grams (2.655 inches-pounds).

Eurocopter France has issued Eurocopter France Telex Service 39/0206/1997, dated July 25, 1997, (containing Eurocopter France AS 332 Telex Service No. 01.00.52 R1) which specifies an inspection of the eye bolts, and replacement of the bearings, if necessary. The DGAC classified this service telex as mandatory and issued DGAC AD 97–174–063(AB), dated August 1, 1997, in order to assure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is 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. Pursuant to this bilateral airworthiness 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 this type design that are certificated 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 332C, L, and L1 helicopters of the same type design registered in the United States, this AD is being issued to prevent failure of a bearing due to premature wear caused by an improper axial pre-load, which could result in loss of main rotor blade pitch control and subsequent loss of control of the helicopter. This AD requires, within 50 hours TIS, for any eye bolt currently installed, or prior to installing any replacement eye bolt, that has less than 500 hours TIS, greasing and inspecting the eye bolt assembly, and replacing unairworthy bearings with airworthy bearings prior to further flight. The actions are required to be accomplished in accordance with the service telex described previously.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore greasing and inspecting the eye bolt assembly, and replacing unairworthy bearings with airworthy bearings is required prior to further flight 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.

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. 97–SW–34–AD.'' The postcard will be date stamped and returned to the commenter.

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, 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:

AD 98–06–32 EUROCOPTER FRANCE: Amendment 39–10411. Docket No. 97–SW–34–AD.

Applicability: Model AS 332C, L, and L1 helicopters, 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 as indicated, unless accomplished previously.

To prevent failure of a main rotor blade horn eye bolt (eye bolt) bearing due to premature wear caused by an improper axial pre-load, which could result in loss of main rotor blade pitch control and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 50 hours time-in-service (TIS) after the effective date of this AD for any eye bolt currently installed, or prior to installing any replacement eye bolt, that has less than 500 hours TIS, grease and inspect the eye bolt assembly in accordance with paragraphs CC.1 through CC.3 of Eurocopter France Telex Service 39/0206/1997, dated July 25, 1997, (containing Eurocopter France AS 332 Telex Service No. 01.00.52 R1). If the expelled grease has a ''blackish'' color or contains metal particles, or if the rotational torque on the eye bolt exceeds 30,000 millimeter grams (2.655 inch-lbs.), replace the eye bolt bearings with airworthy eye bolt bearings in accordance with paragraph CC.4B of the Telex Service.

(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, 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) The actions shall be done in accordance with Eurocopter France Telex Service 39/0206/1997, dated July 25, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 2, 1998.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) Telegraphic AD 97–174–063(AB), dated August 1, 1997.

Issued in Fort Worth, Texas, on March 11, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–6966 Filed 3–17–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29165; Amdt. No. 408]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, April 23, 1998.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its