

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-SW-53-AD]

RIN 2120-AA64

#### Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada Model 407 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD) for Bell Helicopter Textron, A Division of Textron Canada (Bell), Model 407 helicopters, that would have required preflight checking and repetitively inspecting for a crack in certain tailbooms that have not been redesigned and replacing the tailboom if a crack is found. That proposal was prompted by cracking discovered in other areas of certain tailbooms and introduction of a redesigned tailboom with a chemically milled skin, which does not require the current inspections. This action revises the proposed rule by correcting the model applicability, increasing the area of inspection for certain tailbooms, requiring modification of certain tailbooms, and establishing life limits for certain tailbooms. The actions specified by this proposed AD are intended to prevent separation of the tailboom and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before December 16, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001-SW-53-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may

also send comments electronically to the Rules Docket at the following address: [9-asw-adcomments@faa.gov](mailto:9-asw-adcomments@faa.gov). Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437-2862 or (800) 363-8023, fax (450) 433-0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

**FOR FURTHER INFORMATION CONTACT:** Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5122, fax (817) 222-5961.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001-SW-53-AD." The postcard will be date

stamped and returned to the commenter.

#### Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an AD for Bell Model 407 helicopters was published in the **Federal Register** on January 31, 2002 (67 FR 4685). That NPRM would have required preflight checking and repetitively inspecting for a crack in certain tailbooms that have not been redesigned and replacing the tailboom if a crack is found. It further proposed that installing tailboom, P/N 407-030-801-201, would constitute terminating action for the requirements of that AD. That NPRM was prompted by cracking discovered in other areas of certain tailbooms and introduction of a redesigned tailboom with a chemically milled skin, which does not require the current inspections. That condition, if not corrected, could result in separation of the tailboom and subsequent loss of control of the helicopter.

Since the issuance of that NPRM, the manufacturer has issued Bell Helicopter Textron Alert Service Bulletin (ASB) No. 407-99-26, Revision C, dated February 28, 2002, that addresses inspection procedures for certain tailbooms. The manufacturer also issued Bell Helicopter Textron ASB No. 407-01-48, Revision B, dated April 25, 2002, that details the modification and re-identification of those certain tailbooms, assigns a life limit, and details new inspection procedures for those re-identified tailbooms. Additionally, ASB 407-01-48 assigns a life limit and details new inspection procedures for another part-numbered tailboom that was modified by the manufacturer. Further, in addition to the redesigned tailboom, P/N 407-030-801-201, referenced in the NPRM, Bell has at least one additional redesigned tailboom, P/N 407-030-801-203, for these helicopters. Transport Canada, which is the airworthiness authority for Canada, has issued a revised AD No. CF-1999-17R2, dated April 5, 2002, to address these changed requirements.

Further, the FAA received three comments to that NPRM proposing changes. Two commenters state that the AD should be changed to state specific tailboom part numbers for specific inspections. They suggest mandating 50 hour time-in-service (TIS) inspections

for tailbooms, part number (P/N) 407-030-801-101 and -105, until mandated modification and re-identification occurs and life limits are imposed. They also suggest mandating 150 hour TIS inspections for modified and re-identified tailbooms and also tailboom, P/N 407-030-801-107, which was modified by the manufacturer before delivery. These changes are requested because the tailbooms are modified to address the cracking problems, and based on engineering evaluation of these modified tailbooms, the inspection intervals can be expanded. The third commenter, the manufacturer, suggests modifying the proposal to incorporate their later revisions to their service bulletins.

The FAA agrees with the proposed changes and the updated manufacturer service information. We continue to propose mandating daily pre-flight checks and initial 25-hour TIS inspections with recurring 50 hour TIS inspections for the tailbooms, P/N 407-030-801-101 and -105, until they are modified and re-identified. Once modified and re-identified as P/N 407-530-014-101 and -103, respectively, the FAA proposes to mandate the 150 hour TIS inspection and assign a 5,000 hour TIS life limit. The 150 hour TIS inspection and 5,000 hour life limit would also apply to the tailboom, P/N 407-030-801-107. Additionally, the cite to tailboom, P/N 407-030-801-101, as a terminating action has been removed since the installation of other redesigned tailbooms may also effectively remove a helicopter from the applicability of this proposal, thereby constituting a terminating action for the requirements of this AD.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 284 helicopters of U.S. registry would be affected by this proposed AD, that it

would take approximately 3.5 work hours per helicopter to accomplish the initial inspections, 1.5 work hours per helicopter to accomplish the recurring inspections, and 18 work hours per helicopter to accomplish the modification. The average labor rate is \$60 per work hour. Required parts would cost approximately \$1,244 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$3,254 per helicopter, or \$924,136, assuming all U.S. registered helicopters are required to be modified and initially inspected, and have 8 repetitive inspections per year. In its service information, under certain conditions, the manufacturer offers a "special" warranty for parts needed for modifying tailbooms, P/N 407-030-801-101 and -105, and a labor allowance of \$480.

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

#### **Bell Helicopter Textron, a Division of Textron Canada:** Docket No. 2001-SW-53-AD.

*Applicability:* Model 407 helicopters, serial numbers 53000 through 53475, with tailboom, part number (P/N) 407-030-801-101, -105 or -107, or P/N 407-530-014-101 or -103, (re-identified in accordance with Bell Helicopter Textron (Bell) Alert Service Bulletin (ASB) 407-01-48, Revision B, dated April 25, 2002), 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 otherwise 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 request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

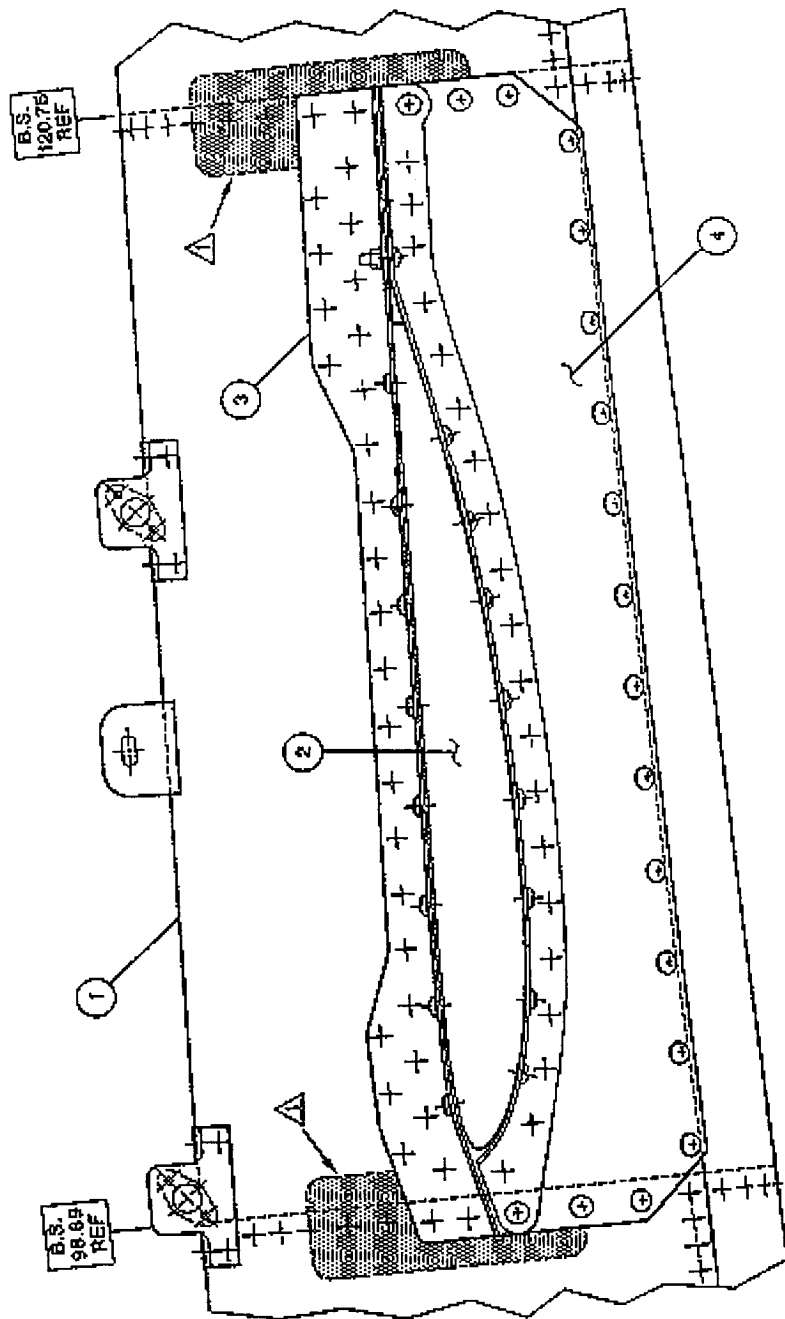
*Compliance:* Required as indicated.

To prevent separation of the tailboom and subsequent loss of control of the helicopter, accomplish the following:

| Applicable tailboom   | Compliance time                     | Actions  | In accordance with   |
|---|-------------------------------------|--|----------------------|
| (a) Tailboom, P/N 407-030-801-101 and -105, that have not been modified in accordance with Bell ASB 407-01-048, Revision B, dated April 25, 2002. | Before the first flight of each day | Visually check the tailboom for cracks. An owner/operator (pilot) holding at least a private pilot certificate may perform the visual check required by this paragraph, but must enter compliance with this paragraph into the helicopter records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). | Figure 1 of this AD. |

| Applicable tailboom   | Compliance time  | Actions   | In accordance with  |
|---|--|---|---|
| (b) Tailboom, P/N 407-030-801-101 and -105, that have 600 or more hours TIS and have not been modified in accordance with Bell ASB 407-01-48, Revision B, dated April 25, 2002. | Within 25 hours time-in-service (TIS), and thereafter at intervals not to exceed 50 hours TIS.                                       | Visually inspect the tailboom for cracks using a 10x or higher magnifying glass.  | Part II of the Accomplishment Instructions of Bell ASB 407-99-26, Revision C, dated February 28, 2002, except contacting Bell is not required.  |
| (c) Tailboom, P/N 407-030-801-101 and -105.   | Within 600 hours TIS, but not later than January 31, 2003, unless previously accomplished.   | Modify and re-identify tailbooms as P/N 407-530-014-101 and -103, respectively, and install improved horizontal stabilizer assembly, P/N 407-023-800-ALL. | Parts I and III of the Accomplishment Instructions in Bell ASB 407-01-48, Revision B, dated April 25, 2002, and Bell Technical Bulletin No. 407-01-33, dated August 29, 2001, except contacting Bell is not required. |
| (d) Tailboom, P/N 407-530-014-101 and -103; and P/N 407-030-801-107.  | Before further flight after the tailboom is modified and re-identified, unless previously accomplished.                              | Create a historical service record sheet and assign a life limit of 5,000 hours TIS since initial installation on any helicopter.                         | Part IV of Accomplishment Instructions in Bell ASB 407-01-48, Revision B, dated April 25, 2002.   |
| (e) Tailboom, P/N 407-530-014-101 and -103; and P/N 407-030-801-107.  | Within 150 hours TIS after modification, or within 150 hours TIS since new, and thereafter at intervals not to exceed 150 hours TIS. | Inspect the tailboom for a crack ..   | Part IV and V of the Accomplishment Instructions in Bell ASB 407-01-48 Revision B, dated April 25, 2002   |
| (f) All applicable part-numbered tailbooms.   | Before further flight .....  | If a crack is found, replace the tailboom.  | The applicable maintenance manual.  |

BILLING CODE 4910-13-P



**LEGEND**

- 1. Tailboom assembly (Ref.)
- 2. Horizontal stabilizer (Ref.)
- 3. Upper support (Ref.)
- 4. lower support (407-023-800-121)

- Δ Examine these areas for cracks on left side of tailboom only.
- 2. Horizontal stabilizer not shown for clarity.

Figure 1. Preflight Check of the tailboom

(g) This AD revises the helicopter Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the tailboom, P/N 407-530-014-101 and -103, and P/N 407-030-801-107 of 5,000 hours TIS.

(h) 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, Regulations Group, 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, Regulations Group.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(i) 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.

**Note 3:** The subject of this AD is addressed in Transport Canada (Canada) AD No. CF-1999-17R2, dated April 5, 2002.

Issued in Fort Worth, Texas, on November 4, 2002.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 02-28859 Filed 11-13-02; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 281

RIN 0790-AG47

#### Settling Personnel and General Claims and Processing Advance Decision Requests

**AGENCY:** Defense Office of Hearings and Appeals, Office of the General Counsel of the Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes policy and assigns responsibilities for settling personnel and general claims and for processing requests for an advance decision. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's Authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense. Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to

the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500.

The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

**DATES:** Consideration will be given to all comments received on or before January 13, 2003.

**ADDRESSES:** Send comments to the Defense Office of Hearings and Appeals, ATTN: Claims Division, P.O. Box 3656, Arlington, VA 22203-1995.

**FOR FURTHER INFORMATION CONTACT:** Michael Hipple, 703-696-8510.

#### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866, "Regulatory Planning and Review"**

The Director of the Defense Office of Hearings and Appeals has determined that this rule is not a significant rule because it does not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact on entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### **Public Law 96-354, "Regulatory Flexibility Act"**

The Director of the Defense Office of Hearings and Appeals has certified that this rule does not have a significant economic impact on a substantial number of small entities because this rule affects members of the Uniformed Services, Federal employees and transportation carriers and provides procedures by which their claims against the United States will be adjudicated. The same minimal requirements for submitting a claim are

applicable to members and transportation carriers.

#### **Public Law 96-511, "Paperwork Reduction Act"**

The Director of the Defense Office of Hearings and Appeals has certified that this rule does not impose information collection requirements.

#### **Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

The Director of the Defense Office of Hearings and Appeals has certified that this rule does not involve a Federal Mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

#### **Executive Order 13132, "Federalism"**

The Director of the Defense Office of Hearings and Appeals has certified that this rule does not have federalism implications. This rule does 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.

#### **List of Subjects in 32 CFR Part 281**

Administrative practice and procedure, Armed Forces, Claims.

Accordingly, 32 CFR part 281 is proposed to be added to subchapter M to read as follows:

#### **PART 281—SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS**

Sec.

- 281.1 Purpose.
- 281.2 Applicability.
- 281.3 Definitions.
- 281.4 Policy.
- 281.5 Responsibilities and functions.

#### **Appendix A to Part 281—Claims Description.**

**Authority:** 10 U.S.C. 2575, 2771, 4712, 9712; 24 U.S.C. 420; 31 U.S.C. 3529, 3702; 32 U.S.C. 714; 37 U.S.C. 554.

#### **§ 281.1 Purpose.**

This part implements policy and assigns responsibilities for settling personnel and general claims (under 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771, 24 U.S.C. 420, 10 U.S.C. 4712, 10 U.S.C. 9712, 37 U.S.C. 554, and 32 U.S.C. 714) and for processing requests for an advance decision under 31 U.S.C. 3529.