

365A33-3530-20, and then installing a blade-to-torsion bar attachment tuning weight assembly, P/N 365A33-3546-00, on each blade of the Quiet Fenestron tail rotor at the same time. Mixing the existing blade attachment bushings, P/N 365A33-3530-20, and the new tuning weight assembly, P/N 365A33-3546-00, on the same tail rotor hub would be prohibited.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC 155B helicopters. The DGAC advises of a report of the discovery of an increased level of vibration felt by the crew in the pedal units.

Eurocopter has issued Alert Service Bulletin 64A001, dated October 30, 2002 (ASB), which specifies installing a tuning weight assembly, P/N 365A33-3546-00, on each blade of the Fenestron tail rotor. Compliance with this ASB requires prior compliance with Eurocopter Service Bulletin 64-002, dated December 19, 2002 (modifications 0765B35 and 0764B39), which specifies upgrading the Quiet Fenestron tail rotor hub and tail rotor gearbox for embodiment of the tuning weight modification, or Eurocopter Service Bulletin 65-003, dated December 10, 2001 (modification 0765B41), which specifies installing a reinforced control shaft on the tail rotor hub control shaft assembly or both. The DGAC classified service bulletin ASB 64A001, dated October 30, 2002, as mandatory and issued AD No. 2002-621(A), dated December 11, 2002, to ensure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 3 helicopters of U.S. registry and the actions will take approximately 8 work hours per helicopter to accomplish at an average labor rate of \$65 per work hour. Required parts will cost approximately \$3,290 and \$40 for attaching hardware. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be \$3,850 for each helicopter, or \$11,550 for the entire fleet.

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); 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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

##### 2004-05-29 Eurocopter France:

Amendment 39-13524. Docket No. 2003-SW-12-AD.

**Applicability:** Model EC 155B helicopters with an upgraded Quiet Fenestron tail rotor hub, part number (P/N) 365A33-3501-02, with tail rotor attachment bushing, P/N 365A33-3530-20, and tail rotor gearbox, P/N 365A33-6005-04 (without the reinforced control shaft, P/N 365A33-6161-21) or tail rotor gearbox, P/N 365A33-6005-06 (with reinforced control shaft, P/N 365A33-6214-20), installed, certificated in any category.

**Compliance:** Within 3 months, unless accomplished previously.

To prevent vibration in the tail rotor attachments and the pilot's anti-torque pedals, blade pitch control failure, and subsequent loss of control of the helicopter, accomplish the following:

(a) Install a tail rotor blade (blade)-to-torsion bar attachment tuning weight assembly, P/N 356A33-3546-00, on each blade of the Quiet Fenestron tail rotor in

accordance with paragraph 2, Accomplishment Instructions, of Eurocopter France Alert Service Bulletin 64A001, dated October 30, 2002. Replace each of the 10 blade attachment bushings, P/N 365A33-3530-20, at the same time. Do not mix the existing blade attachment bushings, P/N 365A33-3530-20, and the new tuning weight assemblies, P/N 365A33-3546-00, on the same tail rotor hub.

(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 Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(c) The installations shall be done in accordance with Eurocopter France Alert Service Bulletin 64A001, dated October 30, 2002. The Director of the Federal Register approved this incorporation by reference 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(d) This amendment becomes effective on April 19, 2004.

**Note:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2002-621(A), dated December 11, 2002.

Issued in Fort Worth, Texas, on March 3, 2004.

**Scott A. Horn,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 04-5332 Filed 3-12-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-SW-11-AD; Amendment 39-13523; AD 2004-05-28]

**RIN 2120-AA64**

#### Airworthiness Directives; Eurocopter France Model AS 365 N3 Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters that requires installing a tail rotor blade (blade)-to-torsion bar attachment tuning weight assembly on each blade of the

Quiet Fenestron tail rotor and replacing each blade attachment bushing. This amendment is prompted by the discovery of tail rotor induced vibrations during flight tests. The actions specified by this AD are intended to prevent vibration in the tail rotor and the pilot's anti-torque pedals, blade pitch control failure, and subsequent loss of control of the helicopter.

**DATES:** Effective April 19, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 19, 2004.

**ADDRESSES:** 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:** Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5116, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:** A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on November 24, 2003 (68 FR 65854). That action proposed to require removing each tail rotor attachment bushing, part number (P/N) 365A33-3530-20, and then installing a blade-to-torsion bar attachment tuning weight assembly, P/N 365A33-3546-00, on each blade of the Quiet Fenestron tail rotor at the same time. Mixing the existing blade attachment bushings, P/N 365A33-3530-20, and the new tuning weight assembly, P/N 365A33-3546-00, on the same tail rotor hub would be prohibited.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS 365 N3 helicopters. The DGAC advises of a report of the discovery of an increased level of vibration felt by the crew in the pedal units.

Eurocopter has issued Alert Service Bulletin (ASB) No. 64.00.23, dated October 30, 2002, which specifies installing a tuning weight assembly, P/

N 365A33-3546-00, on each blade of the Quiet Fenestron tail rotor. Compliance with this ASB requires prior compliance with Eurocopter Service Bulletin 64.00.21, dated November 8, 2000 (modification 0761B23, 0765B35, and 0764B39, 40, 41), which specifies installing a Quiet Fenestron tail rotor, and with Eurocopter Service Bulletin 65.00.14, dated January 7, 2002 (modification 0765B41), which specifies installing a reinforced control shaft on the tail rotor hub control shaft assembly. The DGAC classified these service bulletins as mandatory and issued AD No. 2002-622(A), dated December 11, 2002, to ensure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 6 helicopters of U.S. registry and the actions will take approximately 8 work hours per helicopter to accomplish at an average labor rate of \$65 per work hour. Required parts will cost approximately \$3,290, and attaching hardware will cost \$40. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be \$3,850 per helicopter, or \$23,100 for the entire fleet.

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); 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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

#### 2004-05-28 Eurocopter France:

Amendment 39-13523. Docket No. 2003-SW-11-AD.

**Applicability:** Model AS 365 N3 helicopters, with a Quiet Fenestron tail rotor (tail rotor gearbox, part number (P/N) 365A33-6005-06, and tail rotor hub, P/N 365A33-3500-02), tail rotor hub attachment bushings, P/N 365A33-3530-20, and a reinforced control shaft, P/N 365A33-6214-20, on the tail rotor hub control shaft assembly, installed, certificated in any category.

**Compliance:** Within 3 months, unless accomplished previously.

To prevent vibration in the tail rotor attachments and the pilot's anti-torque pedals, blade pitch control failure, and subsequent loss of control of the helicopter, accomplish the following:

(a) Install a tail rotor blade (blade)-to-torsion bar attachment tuning weight assembly, P/N 365A33-3546-00, on each blade of the Quiet Fenestron tail rotor in accordance with paragraph 2, Accomplishment Instructions, of Eurocopter France Alert Service Bulletin 64.00.23, dated October 30, 2002. Replace each of the 10 blade attachment bushings, P/N 365A33-3530-20, at the same time. Do not mix the existing blade attachment bushings, P/N 365A33-3530-20, and the new tuning weight assemblies, P/N 365A33-3546-00, on the same tail rotor hub.

(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 Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(c) The installations shall be done in accordance with Eurocopter France Alert Service Bulletin 64.00.23, dated October 30, 2002. The Director of the Federal Register approved this incorporation by reference 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(d) This amendment becomes effective on April 19, 2004.

**Note:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2002-622(A), dated December 11, 2002.

Issued in Fort Worth, Texas, on March 3, 2004.

**Scott A. Horn,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 04-5331 Filed 3-12-04; 8:45 am]

**BILLING CODE 4910-13-P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 211

[Release No. SAB 105]

#### Staff Accounting Bulletin No. 105

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Publication of staff accounting bulletin.

**SUMMARY:** This staff accounting bulletin summarizes the views of the staff regarding the application of generally accepted accounting principles to loan commitments accounted for as derivative instruments.

**DATES:** Effective March 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** John James, Greg Cross or Eric Schuppenhauer, Office of the Chief Accountant (202) 942-4400, or Louise Dorsey, Division of Corporation Finance (202) 942-2960, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The statements in staff accounting bulletins are not rules or interpretations of the Commission, nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: March 9, 2004.

**Jill M. Peterson,**

*Assistant Secretary.*

#### PART 211—[AMENDED]

■ Accordingly, part 211 of title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 105 to the table found in subpart B.

#### Staff Accounting Bulletin No. 105

**Note:** The text of SAB 105 will not appear in the Code of Federal Regulations.

The staff hereby adds Section DD to Topic 5 of the Staff Accounting Bulletin Series. Topic 5:DD provides guidance regarding loan commitments accounted for as derivative instruments.

#### Topic 5: Miscellaneous Accounting

\* \* \* \* \*

#### DD. Loan Commitments Accounted for as Derivative Instruments

**Facts:** Bank A enters into a loan commitment with a customer to extend a mortgage loan at a specified rate. Bank A intends to sell the mortgage loan after it is funded. Under Statement No. 133, such a loan commitment should be accounted for as a derivative instrument and measured at fair value.<sup>1</sup> Bank A expects to receive future cash flows related to servicing rights from servicing fees (included in the loan's interest rate or otherwise), late charges, and other ancillary sources, or from selling the servicing rights into the market.

**Question 1:** In recognizing the loan commitment, may Bank A consider the expected future cash flows related to the associated servicing of the loan?

**Interpretive Response:** No. The staff believes that incorporating expected future cash flows related to the associated servicing of the loan essentially results in the immediate recognition of a servicing asset. However, servicing assets are to be recognized only once the servicing asset has been contractually separated from the underlying loan by sale or securitization of the loan with servicing retained.<sup>2</sup>

Further, no other internally-developed intangible assets (such as customer relationship intangible assets) should be recorded as part of the loan commitment derivative. Recognition of such assets would

<sup>1</sup> Paragraph 3 of FASB Statement No. 149, *Amendment of Statement 133 on Derivative Instruments and Hedging Activities*, amended paragraph 6(c) of Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, to add: "\* \* \* \* \* loan commitments that relate to the origination of mortgage loans that will be held for sale, as discussed in paragraph 21 of FASB Statement No. 65, *Accounting for Mortgage Banking Activities* (as amended), shall be accounted for as derivative instruments by the issuer of the loan commitment (that is, the potential lender)." Similar guidance is provided in Statement 133 Implementation Issue No. C13, *Scope Exceptions: When a Loan Commitment Is Included in the Scope of Statement 133*.

<sup>2</sup> See paragraph 61 of FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*.

only be appropriate in a third-party transaction (for example, the purchase of a loan commitment either individually, in a portfolio, or in a business combination).

**Question 2:** What disclosures should Bank A provide with respect to loan commitments accounted for as derivative instruments?

**Interpretive Response:** Bank A should disclose its accounting policy for loan commitments pursuant to APB Opinion No. 22, *Disclosure of Accounting Policies*. Bank A should provide disclosures related to loan commitments accounted for as derivatives, including methods and assumptions used to estimate fair value and any associated hedging strategies, as required by Statement No. 107,<sup>3</sup> Statement No. 133 and Item 305 of Regulation S-K. Additionally, Bank A should provide disclosures required by Item 303 of Regulation S-K and any related interpretive guidance.

**Question 3:** Will the staff expect retroactive changes by registrants to comply with the accounting described in this bulletin?

**Interpretive Response:** The staff will not object if registrants that have not been applying the accounting described in this bulletin continue to use their existing accounting policies for loan commitments accounted for as derivatives entered into on or before March 31, 2004. For loan commitments accounted for as derivatives and entered into subsequent to that date, the staff expects all registrants to apply the accounting described in this bulletin. Financial statements filed with the Commission before applying the guidance in this bulletin should include disclosures similar to those described in SAB Topic 11:M.

[FR Doc. 04-5731 Filed 3-12-04; 8:45 am]

**BILLING CODE 8010-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 558

#### New Animal Drugs; Ractopamine

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two new animal drug applications (NADAs) filed by Elanco Animal Health. One NADA provides for use of ractopamine and monensin Type A medicated articles to make dry and liquid two-way combination Type B and Type C medicated feeds for cattle fed in confinement for slaughter. The other NADA provides for use of ractopamine, monensin, and tylosin Type A

<sup>3</sup> FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments*.