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Issued in Burlington, Massachusetts, on March 12, 2008.

**Robert J. Ganley,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-0327; Directorate Identifier 2007-SW-21-AD]

RIN 2120-AA64

#### Airworthiness Directives; Agusta S.p.a. Model A109E and A119 Helicopters

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the specified helicopters. This proposed AD results from a mandatory continuing airworthiness information (MCAI) AD originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The European Aviation Safety Agency (EASA), the Technical Agent for Italy, with which we have a bilateral agreement, states in the MCAI:

Some cases of interference between the hydraulic pipe, P/N 109-0761-65-103, and the tail rotor control rod assembly have been detected on Model A109E helicopters.

The interference, if not corrected, could damage the hydraulic pipes and lead to the loss of the hydraulic system No. 1 in flight. This AD \* \* \* is issued to extend the same mandatory corrective actions to A119 model due to its design similarity with A109E.

The proposed AD would require actions that are intended to address this unsafe condition.

**DATES:** We must receive comments on this proposed AD by April 18, 2008.

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

- *Federal eRulemaking Portal:* Go to <http://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:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605-222595.

*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 FURTHER INFORMATION CONTACT:** Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, fax (817) 222-5961.

#### SUPPLEMENTARY INFORMATION:

##### Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decisionmaking responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2008-0327; Directorate Identifier 2007-SW-21-AD" at the beginning of

your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

##### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued an MCAI in the form of EASA AD No. 2007-0231, dated August 23, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for these Italian-certificated products. The MCAI states:

Some cases of interference between the hydraulic pipe, P/N 109-0761-65-103, and the tail rotor control rod assembly have been detected on Model A109E helicopters.

The interference, if not corrected, could damage the hydraulic pipes and lead to the loss of the hydraulic system No. 1 in flight. This AD \* \* \* is issued to extend the same mandatory corrective actions to A119 model due to its design similarity with A109E.

You may obtain further information by examining the MCAI and service information in the AD docket.

##### Relevant Service Information

Agusta has issued Bollettino Tecnico (BT) No. 109EP-73, dated December 4, 2006, applicable to Model A109E helicopters, and BT No. 119-22, dated July 11, 2007, applicable to Model A119 helicopters. The actions described in the MCAI are intended to correct the same unsafe condition as that identified in the service information.

##### FAA's Determination and Requirements of This Proposed AD

These model helicopters have been approved by the aviation authority of Italy, and are approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

##### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in

general, agree with their substance. However, this AD requires replacement of hydraulic lines within 180 days, unless previously accomplished, instead of replacing the hydraulic lines on the dates specified in the MCAI. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information. These differences are highlighted in the "Differences Between the FAA AD and the MCAI" section in the proposed AD.

### Costs of Compliance

We estimate that this proposed AD would affect about 78 helicopters of U.S. registry and that it would take about 2 work-hours per helicopter to inspect and 16 work-hours per helicopter to replace the hydraulic lines. The average labor rate is \$80 per work-hour. Required parts would cost about \$562 per helicopter, assuming these parts are no longer under warranty. However, because the service information lists these parts as covered under warranty, we have assumed that there will be no charge for these parts.

Therefore, as we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$112,320, or \$1,440 per helicopter.

### 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.

We are 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

We 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;
2. Is not a "significant rule" under the 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.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 AD:

**Agusta. S.p.a.:** Docket No. FAA-2008-0327; Directorate Identifier 2007-SW-21-AD.

#### Comments Due Date

- (a) We must receive comments by April 18, 2008.

#### Other Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to Agusta S.p.a. Model A109E and A119 helicopters, with hydraulic lines, part number (P/N) 109-0761-64-103 or P/N 109-0761-65-103, installed, certificated in any category.

#### Reason

- (d) The mandatory continuing airworthiness information (MCAI) states: Some cases of interference between the hydraulic pipe, P/N 109-0761-65-103, and the tail rotor control rod assembly have been detected on Model A109E helicopters.

The interference, if not corrected, could damage the hydraulic pipes and lead to the loss of the hydraulic system No. 1 in flight. This AD \* \* \* is issued to extend the same mandatory corrective actions to A119 model due to its design similarity with A109E.

### Actions and Compliance

- (e) Within the next 50 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 100 hours TIS:

(1) Inspect for interference between the hydraulic lines, P/N 109-0761-64-103 and P/N 109-0761-65-103, and the tail rotor control rod assembly, P/N 109-0032-01-41, in accordance with the Compliance Instructions, Part I, paragraph 3, of Agusta Bollettino Tecnico (BT) No. 109EP-73, dated December 4, 2006 (BT A109E), which is applicable to Model A109E helicopters, or BT 119-22, dated July 11, 2007 (BT 119-22), which is applicable to Model A119 helicopters.

(2) If you find interference between the hydraulic lines and the tail rotor control rod assembly, replace the hydraulic lines, P/N 109-0761-64-103 and P/N 109-0761-65-103, with hydraulic lines, P/N 109-0763-96-101 and P/N 109-0763-97-101, respectively, in accordance with the Compliance Instructions, Part II of BT A109E or BT 119-22, whichever is applicable to your model helicopter.

(f) Within 180 days, replace hydraulic lines, P/N 109-0761-64-103 and P/N 109-0761-65-103, with hydraulic lines, P/N 109-0763-96-101 and P/N 109-0763-97-101, respectively, in accordance with the Compliance Instructions, Part II, of BT A109E or BT 119-22, whichever is applicable to your model helicopter.

### Differences Between the FAA AD and the MCAI

- (g) This AD requires replacement of hydraulic lines, P/N 109-0761-64-103 and P/N 109-0761-65-103, within 180 days, unless previously accomplished, instead of replacing the hydraulic lines on the dates specified in the MCAI.

### Subject

- (h) Air Transport Association of America (ATA) Code 2910—Main Hydraulic System.

### Other Information

- (i) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Regulations and Policy Group, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, fax (817) 222-5961.

(2) *Airworthy Product:* Use only FAA-approved corrective actions. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent) if the State of Design has an appropriate bilateral agreement with the United States. You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB)

has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(j) MCAI EASA AD No 2007-0231, dated August 23, 2007 contains related information.

Issued in Fort Worth, Texas, on March 10, 2008.

#### Mark R. Schilling,

Acting Manager, Rotorcraft Directorate,  
Aircraft Certification Service.

[FR Doc. E8-5495 Filed 3-18-08; 8:45 am]

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4001, 4211, and 4219

RIN 1212-AB07

#### Methods for Computing Withdrawal Liability; Reallocation Liability Upon Mass Withdrawal; Pension Protection Act of 2006

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule amends PBGC's regulation on Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR part 4211) to implement provisions of the Pension Protection Act of 2006 (Pub. L. c109-280) that provide for changes in the allocation of unfunded vested benefits to withdrawing employers from a multiemployer pension plan, and that require adjustments in determining an employer's withdrawal liability when a multiemployer plan is in critical status. Pursuant to PBGC's authority under section 4211(c)(5) of ERISA to prescribe standard approaches for alternative methods, the proposed rule would also amend this regulation to provide additional modifications to the statutory methods for determining an employer's allocable share of unfunded vested benefits. In addition, pursuant to PBGC's authority under section 4219(c)(1)(D) of ERISA, this proposed rule would amend PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) to improve the process of fully allocating a plan's total unfunded vested benefits among all liable employers in a mass withdrawal. Finally, this proposed rule would amend PBGC's regulation on Terminology (29 CFR part 4001) to reflect a definition of a "multiemployer plan" added by the Pension Protection Act of 2006.

**DATES:** Comments must be submitted on or before May 19, 2008.

**ADDRESSES:** Comments, identified by Regulation Information Number (RIN 1212-AB07), may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.
- *E-mail:* [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov).
- *Fax:* 202-326-4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.

Comments received, including personal information provided, will be posted to <http://www.pbgc.gov>. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

**FOR FURTHER INFORMATION CONTACT:** John H. Hanley, Director; Catherine B. Klion, Manager; or Constance Markakis, Attorney; Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

#### SUPPLEMENTARY INFORMATION:

##### Background

Under section 4201 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA"), an employer that withdraws from a multiemployer pension plan may incur withdrawal liability to the plan. Withdrawal liability represents the employer's allocable share of the plan's unfunded vested benefits determined under section 4211 of ERISA, and adjusted in accordance with other provisions in sections 4201 through 4225 of ERISA. Section 4211 prescribes four methods that a plan may use to allocate a share of unfunded vested benefits to a withdrawing employer, and also provides for possible modifications of those methods and for the use of allocation methods other than those prescribed. In general, changes to a plan's allocation methods are subject to the approval of the Pension Benefit Guaranty Corporation ("PBGC").

Under section 4211(b)(1) of ERISA (the "presumptive method"), the amount of unfunded vested benefits allocable to a withdrawing employer is the sum of the employer's proportional share of: (i) The unamortized amount of the change in the plan's unfunded vested benefits for each plan year for which the employer has an obligation to contribute under the plan (*i.e.*, multiple-year liability pools) ending with the plan year preceding the plan year of employer's withdrawal; (ii) the unamortized amount of the unfunded vested benefits at the end of the last plan year ending before September 26, 1980, with respect to employers who had an obligation to contribute under the plan for the first plan year ending after such date; and (iii) the unamortized amount of the reallocated unfunded vested benefits (amounts the plan sponsor determines to be uncollectible or unassessable) for each plan year ending before the employer's withdrawal. Each amount described in (i) through (iii) is reduced by 5 percent for each plan year after the plan year for which it arose. An employer's proportional share is based on a fraction equal to the sum of the contributions required to be made under the plan by the employer over total contributions made by all employers who had an obligation to contribute under the plan, for the five plan years ending with the plan year in which such change arose, the five plan years preceding September 26, 1980, and the five plan years ending with the plan year such reallocation liability arose, respectively (the "allocation fraction").

Section 4211(c)(1) of ERISA generally prohibits the adoption of any allocation method other than the presumptive method by a plan that primarily covers employees in the building and construction industry ("construction industry plan"), subject to regulations that allow certain adjustments in the denominator of an allocation fraction.

Under section 4211(c)(2) of ERISA (the "modified presumptive method"), a withdrawing employer is liable for a proportional share of: (i) The plan's unfunded vested benefits as of the end of the plan year preceding the withdrawal (less outstanding claims for withdrawal liability that can reasonably be expected to be collected and the amounts set forth in (ii) below allocable to employers obligated to contribute in the plan year preceding the employer's withdrawal and who had an obligation to contribute in the first plan year ending after September 26, 1980); and (ii) the plan's unfunded vested benefits as of the end of the last plan year ending before September 26, 1980 (amortized