

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2018-0737; Product Identifier 2017-SW-096-AD]

RIN 2120-AA64

**Airworthiness Directives; Leonardo S.p.A. Helicopters****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Leonardo S.p.A. (Type Certificate Previously Held by Finmeccanica S.p.A., AgustaWestland S.p.A.) Model AW139 helicopters. This proposed AD would require inspecting and altering the number 1 driveshaft (driveshaft). This proposed AD is prompted by reports of scratches that were found on the driveshaft. The actions of this proposed AD are intended to prevent an unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by October 26, 2018.

**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> by searching for and locating Docket No. FAA-2018-0737; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (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 rule, contact Leonardo

S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39-0331-711756; fax +39-0331-229046; or at <http://www.leonardocompany.com/-/bulletins>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:**

David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222-5110; email [david.hatfield@faa.gov](mailto:david.hatfield@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 document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

**Discussion**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2017-0011, dated January 25, 2017, to correct an unsafe condition for certain serial-numbered Leonardo S.p.A. (formerly Finmeccanica S.p.A, AgustaWestland S.p.A.) Model AW139 helicopters. EASA advises of several helicopters found with scratches on the driveshaft part-number (P/N) 3G6510A01132 and that an investigation determined only helicopters equipped with rear exhaust module assembly P/N 3G7810A00431

and tunnel assembly P/N 3G7130A13431 are affected. According to EASA, the scratches resulted from insufficient clearance between the driveshaft and the rear exhaust module and tunnel assemblies. EASA further advises that if not corrected, these scratches could lead to a crack in the driveshaft, failure of the tail rotor drive system, and subsequent reduced control of the helicopter. To prevent this potential unsafe condition, the EASA AD requires repetitive inspections of the driveshaft for a crack until the exhaust module and tunnel assembly are modified to increase the clearance.

**FAA's Determination**

These 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 Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

**Related Service Information Under 1 CFR Part 51**

We reviewed Leonardo Helicopters Bollettino Tecnico No. 139-465, Revision A, dated January 25, 2017, which contains procedures for visual and eddy-current inspections of the driveshaft. This service information also contains procedures for modifying the exhaust module and tunnel assemblies.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Proposed AD Requirements**

This proposed AD would require, within 30 hours time-in-service (TIS) and thereafter at intervals not exceeding 100 hours TIS, inspecting the driveshaft tube P/N 3G6510A00832 for a scratch and indentation. If there is a scratch or indentation, the proposed AD would require, before further flight, repairing the driveshaft tube and performing a depth check of the repaired area. If the repaired area depth is more than 0.2 mm, the proposed AD would require replacing the driveshaft tube and altering the rear exhaust module and tunnel assembly before further flight. If the depth of the repaired area of the tube is 0.2 mm or less, the proposed AD would require, before further flight, performing an eddy current inspection of the tube for a crack. If there is a crack,

the proposed AD would require replacing the driveshaft tube and altering the rear exhaust module and tunnel assembly before further flight.

This proposed AD would also require, within 300 hours TIS, altering the rear exhaust module and tunnel assembly, if not previously done as a result of the inspections. Because this proposed AD would also require re-identifying the tunnel assembly part number after it is altered, this would be terminating action for the repetitive inspections.

#### Costs of Compliance

We estimate that this proposed AD would affect 55 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD, based on an average labor rate of \$85 per work-hour. Inspecting, repairing, and eddy-current inspecting the driveshaft tube would require about 6 work-hours, and required parts cost would be minimal, for a cost of \$510 per helicopter and \$28,050 for the U.S. fleet per inspection cycle. Altering the rear exhaust module and tunnel assembly would require about 20 work-hours, and required parts would cost \$1,500, for a cost of \$3,200 per helicopter and \$176,000 for the U.S. fleet.

If required, replacing a driveshaft tube would require 1 work-hour, and required parts would cost \$6,500, for a cost per helicopter of \$6,585.

According to Leonardo Helicopter's service information some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Leonardo Helicopters. Accordingly, we have included all costs in our cost estimate.

#### 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, 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);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. 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, Incorporation by reference, 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 airworthiness directive (AD):

**Leonardo S.p.A. (Type Certificate Previously Held by Finmeccanica S.p.A., AgustaWestland S.p.A.):** Docket No. FAA-2018-0737; Product Identifier 2017-SW-096-AD.

#### (a) Applicability

This AD applies to Model AW139 helicopters, serial numbers 31499, 31504, 31507, 31509, 31512, 31518, 31519, 31524, 31529, 31533, 31535 through 31564, 31567, 31569, 31570, 31589, 41363, 41368 through 41370, 41372 through 41375, 41378, 41381, and 41384, with a tunnel assembly part

number 3G7130A13431 installed, certificated in any category.

#### (b) Unsafe Condition

This AD defines the unsafe condition as a crack in a tail rotor driveshaft, which could result in failure of the tail rotor drive system and subsequent loss of control of the helicopter.

#### (c) Comments Due Date

We must receive comments by October 26, 2018.

#### (d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

#### (e) Required Actions

(1) Within 30 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, inspect the number 1 driveshaft tube shaft, P/N 3G6510A00832, for a scratch and indentation in the area depicted in Figure 1 of Leonardo Helicopters Bollettino Tecnico No. 139-465, Revision A, dated January 25, 2017 (BT 139-465). If there is a scratch or indentation, before further flight:

- (i) Repair the tube shaft in accordance with the Compliance Instructions, Part I, paragraphs 7.1 through 7.3, of BT 139-465.
- (ii) Measure the depth of the repaired areas as depicted in Figure 2 of BT 139-465.

(A) If the depth of the reworked area is 0.2 mm (0.079 inch) or less, eddy-current inspect the driveshaft for a crack as described in the Compliance Instructions, Annex A, of BT 139-465. If there is a crack, before further flight, replace the driveshaft, alter the rear exhaust module, and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139-465.

(B) If the depth of the reworked area is more than 0.2 mm (0.079 inch), before further flight, replace the driveshaft, alter the rear exhaust module, and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139-465.

(2) Within 300 hours TIS, unless already accomplished as required by paragraph (e)(1)(ii) of this AD, alter the rear exhaust module and alter and re-identify the tunnel assembly in accordance with the Compliance Instructions, Part II, paragraphs 7 through 12, of BT 139-465.

#### (f) Special Flight Permits

Special flight permits are prohibited.

#### (g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222-5110; email 9-ASW-FTW-AMOC-Requests@faa.gov.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that

you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(h) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017-0011, dated January 25, 2017. You may view the EASA AD on the internet at <http://www.regulations.gov> in the AD Docket.

**(i) Subject**

Joint Aircraft Service Component (JASC)  
Code: 6510 Tail Rotor Driveshaft.

Issued in Fort Worth, Texas, on August 10, 2018.

**Lance T. Gant,**

Director, Compliance & Airworthiness  
Division, Aircraft Certification Service.

[FR Doc. 2018-18472 Filed 8-24-18; 8:45 am]

**BILLING CODE 4910-13-P**

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-112176-18]

RIN 1545-BO89

**Contributions in Exchange for State or Local Tax Credits**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notification of public hearing.

**SUMMARY:** This document contains proposed amendments to regulations under section 170 of the Internal Revenue Code (Code). The proposed amendments provide rules governing the availability of charitable contribution deductions under section 170 when a taxpayer receives or expects to receive a corresponding state or local tax credit. This document also proposes amendments to the regulations under section 642(c) to apply similar rules to payments made by a trust or decedent's estate. This document provides notification of a public hearing on these proposed regulations.

**DATES:** Written and electronic comments must be received by October 11, 2018. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for November 5, 2018, must be received by October 11, 2018.

**ADDRESSES:** Send submissions to Internal Revenue Service, CC:PA:LPD:PR (REG-112176-18), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand-delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (REG-112176-18), Courier's Desk, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (indicate IRS and REG-112176-18). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Merrill D. Feldstein and Mon Lam at (202) 317-4059; concerning submission of comments and requests for a public hearing, Regina Johnson at (202) 317-6901 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 170(a)(1) generally allows an itemized deduction for any "charitable contribution" paid within the taxable year. Section 170(c) defines "charitable contribution" as a "contribution or gift to or for the use of" any entity listed in that subsection. Section 170(c)(1) includes a contribution or gift to or for the use of a State, a possession of the United States, or any political subdivision of the foregoing, but only if the contribution or gift is made exclusively for public purposes. Section 170(c)(2) includes, in general, a contribution or gift to or for the use of certain corporations, trusts, or community chests, funds, or foundations, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

Section 164 generally allows an itemized deduction for the payment of certain taxes, including state and local, and foreign, real property taxes; state and local personal property taxes; and state and local, and foreign, income, war profits, and excess profits taxes. Section 164(b)(6), as added by section 11042 of "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018" (the Act), Public Law 115-97, limits an individual's deduction for the aggregate amount of state and local taxes paid during the calendar year to \$10,000 (\$5,000 in the case of a married individual filing a separate return). This new limitation applies to taxable years beginning after

December 31, 2017, and before January 1, 2026.

**I. The Charitable Contribution Deduction**

In 1986, the Supreme Court interpreted the phrase "charitable contribution" in section 170. See *United States v. American Bar Endowment*, 477 U.S. 105, 116-118 (1986). The Court held that the "sine qua non of a charitable contribution is a transfer of money or property without adequate consideration"—that is, without the expectation of a *quid pro quo*. *Id.* at 118. A "payment of money generally cannot constitute a charitable contribution if the contributor expects a substantial benefit in return." *Id.* at 116. The Court recognized that some payments may have a "dual character"—part charitable contribution and part *quid pro quo*—whereby the taxpayer receives some "nominal benefit" of lesser value than the payment. *Id.* at 117. In such cases, the Court reasoned, "it would not serve the purposes of § 170 to deny a deduction altogether." *Id.* Instead, the Court held, the charitable contribution deduction is allowed, but only to the extent the amount donated or the fair market value of the property transferred by the taxpayer exceeds the fair market value of the benefit received in return, and only if the excess amount was transferred with the intent of making a gift. *Id.*

For the benefit received in return to reduce the allowable charitable contribution deduction under section 170, the benefits received, or expected to be received, by a donor need only be greater than those benefits that inure to the general public from transfers for charitable purposes. See, e.g., *Singer Co. v. United States*, 449 F.2d 413, 422-423 (Ct. Cl. 1971); *American Bar Endowment*, 477 U.S. at 116-17 (citing *Singer*); *Hernandez v. Commissioner*, 490 U.S. 680 (1989). In addition, the benefits received need not come directly from the donee to reduce the allowable deduction, nor do they need to be specifically quantifiable at the time of transfer. See, e.g., *Singer*, 449 F.2d at 422. The Treasury Department and the IRS have incorporated many of these principles into regulations under section 170. Section 1.170A-1(h)(1) of the Income Tax Regulations provides, for example, that no part of a payment that a taxpayer makes to or for the use of an organization described in section 170(c) that is in consideration for (as defined in § 1.170A-13(f)(6)) goods or services (as defined in § 1.170A-13(f)(5)) is a contribution or gift within the meaning of section 170(c) unless the taxpayer (i) intends to make a payment