

**PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH 1 YEAR OF SERVICE IN THE UNITED STATES ARMED FORCES**

■ 1. The heading for part 328 is revised as set forth above.

■ 2. The authority citation for part 328 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1439, 1443.

■ 3. Section 328.2 is amended by revising paragraph (b) to read as follows:

**§ 328.2 Eligibility.**

\* \* \* \* \*

(b) Has served under paragraph (a) of this section for a period of 1 or more years, whether that service is continuous or discontinuous;

\* \* \* \* \*

■ 4. Section 328.4 is amended by revising the last sentence to read as follows:

**§ 328.4 Application.**

\* \* \* The application must be accompanied by Form N-426, Request for Certification of Military or Naval Service.

**PART 329—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH ACTIVE DUTY OR CERTAIN READY RESERVE SERVICE IN THE UNITED STATES ARMED FORCES DURING SPECIFIED PERIODS OF HOSTILITIES**

■ 5. The heading for part 329 is revised as set forth above.

■ 6. The authority citation for part 329 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1440, 1443; 8 CFR part 2.

■ 7. Section 329.2 is amended by revising paragraph (a) introductory text to read as follows:

**§ 329.2. Eligibility.**

\* \* \* \* \*

(a) Has served honorably in the Armed Forces of the United States as a member of the Selected Reserve of the Ready Reserve or in an active duty status in the Armed Forces of the United States during:

\* \* \* \* \*

■ 8. Section 329.4 is amended by revising the last sentence of paragraph (a) to read as follows:

**§ 329.4. Application and evidence.**

(a) *Application.* \* \* \* The application must be accompanied by

Form N-426, Request for Certification of Military or Naval Service.

\* \* \* \* \*

**Janet Napolitano,**

*Secretary.*

[FR Doc. 2010-578 Filed 1-15-10; 8:45 am]

**BILLING CODE 9111-97-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2010-0009; Directorate Identifier 2010-NE-01-AD; Amendment 39-16178; AD 2010-02-08]**

**RIN 2120-AA64**

**Airworthiness Directives; Turbomeca Turmo IV A and IV C Turboshaft Engines**

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During a maintenance inspection before the first flight of the day, an oil leak was found on an engine deck. A circumferential crack on the intermediate bearing return flexible pipe union (pipe part number 9 560 17 606 0) was identified as the origin of the leak. A similar oil pipe union crack was then reported at the same location on another engine, on the same pipe part number. This pipe part number was approved as Modification TU 233 in 2008.

Although such cracks have been detected and did not lead to an in-service event, the possibility exists that some additional cracks could occur and may not be detected before the potential complete rupture of the union.

We are issuing this AD to prevent a helicopter engine in-flight shutdown resulting in an emergency auto-rotation landing or accident.

**DATES:** This AD becomes effective February 3, 2010.

We must receive comments on this AD by February 18, 2010.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

Contact Turbomeca S.A., 40220 Tarnos, France; e-mail: [noria-dallas@turbomeca.com](mailto:noria-dallas@turbomeca.com); telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, or go to: <http://www.turbomeca-support.com>, for a copy of the service information identified in this AD.

**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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:**

Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [kevin.dickert@faa.gov](mailto:kevin.dickert@faa.gov); telephone (781) 238-7117; fax (781) 238-7199.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009-0261-E, dated December 18, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During a maintenance inspection before the first flight of the day, an oil leak was found on an engine deck. A circumferential crack on the intermediate bearing return flexible pipe union (pipe part number 9 560 17 606 0) was identified as the origin of the leak. A similar oil pipe union crack was then reported at the same location on another engine, on the same pipe part number. This pipe part number was approved as Modification TU 233 in 2008.

Although such cracks have been detected and did not lead to an in-service event, the possibility exists that some additional cracks could occur and may not be detected before the potential complete rupture of the union.

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

### Relevant Service Information

Turbomeca has issued Alert Service Bulletin No. A249 72 0809, Version A, dated December 15, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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

This product has been approved by the aviation authority of EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with EASA, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This AD requires, for Turmo IV A and Turmo IV C engines that have incorporated Turbomeca Modification TU 233, initial and repetitive visual inspections for the absence of oil leakage or seepage from the unions of the intermediate bearing return flexible pipes.

### FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failures of the flexible pipe unions, which if not corrected, could lead to an in-flight engine shutdown and a forced autorotation landing or accident. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

### Interim Actions

These actions are interim actions and we may take further rulemaking actions in the future.

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2010-0009; Directorate Identifier 2010-NE-01-AD"

at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of 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 with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

### 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 AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify this AD:

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 a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

**2010-02-08 Turbomeca:** Amendment 39-16178; Docket No. FAA-2010-0009; Directorate Identifier 2010-NE-01-AD.

#### Effective Date

(a) This airworthiness directive (AD) becomes effective February 3, 2010.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Turbomeca Turmo IV A and IV C turboshaft engines that have incorporated Turbomeca Modification TU 233. These engines are installed on, but not limited to, Eurocopter SA 330F, G, or J PUMA helicopters.

#### Reason

(d) During a maintenance inspection before the first flight of the day, an oil leak was found on an engine deck. A circumferential crack on the intermediate bearing return flexible pipe union (pipe part number 9 560 17 606 0) was identified as the origin of the leak. A similar oil pipe union crack was then reported at the same location on another engine, on the same pipe part number. This pipe part number was approved as Modification TU 233 in 2008.

Although such cracks have been detected and did not lead to an in-service event, the possibility exists that some additional cracks could occur and may not be detected before the potential complete rupture of the union.

This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to prevent a helicopter engine in-flight shutdown resulting in an emergency autorotation landing or accident.

**Actions and Compliance**

(e) Unless already done, do the following actions.

(1) Before the next flight after the effective date of this AD, and thereafter daily after the last flight of the day until further notice, visually inspect for absence of oil leakage or seepage from both unions of the intermediate bearing return flexible pipes, part number 9 560 17 606 0.

(2) If any oil leakage or seepage is found, disassemble the pipe and visually inspect the unions.

(3) If no crack is found, re-install the pipe.

(4) If any crack is found, remove the pipe from service and replace it.

(5) The actions required by paragraph (e)(1) of this AD may be performed by the owner/operator holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 and 91.417(a)(2)(v).

**FAA AD Differences**

(f) None.

**Alternative Methods of Compliance (AMOCs)**

(g) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

**Related Information**

(h) Refer to MCAI Airworthiness Directive 2009-0261-E, dated December 18, 2009, and Turbomeca Alert Mandatory Service Bulletin No. A249 72 0809, Version A, dated December 15, 2009, for related information. Contact Turbomeca S.A., 40220 Tarnos, France; e-mail: [noria-dallas@turbomeca.com](mailto:noria-dallas@turbomeca.com); telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, or go to: <http://www.turbomeca-support.com>, for a copy of this service information.

(i) Contact Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [kevin.dickert@faa.gov](mailto:kevin.dickert@faa.gov); telephone (781) 238-7117; fax (781) 238-7199, for more information about this AD.

**Material Incorporated by Reference**

(j) None.

Issued in Burlington, Massachusetts, on January 12, 2010.

**Peter A. White,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*  
[FR Doc. 2010-758 Filed 1-15-10; 8:45 am]

**BILLING CODE 4910-13-P**

**SECURITIES AND EXCHANGE COMMISSION****17 CFR Part 240**

[Release No. 34-61335; File No. S7-12-09]

RIN 3235-AK31

**Shareholder Approval of Executive Compensation of TARP Recipients**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adopting amendments to the proxy rules under the Securities Exchange Act of 1934 to set forth certain requirements for U.S. registrants subject to Section 111(e) of the Emergency Economic Stabilization Act of 2008. Section 111(e) of the Emergency Economic Stabilization Act of 2008 requires companies that have received financial assistance under the Troubled Asset Relief Program (“TARP”) to permit a separate shareholder advisory vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission, during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding. The amendments are intended to help implement this requirement by specifying and clarifying it in the context of the Federal proxy rules.

**DATES:** *Effective Date:* February 18, 2010.

**FOR FURTHER INFORMATION CONTACT:** John Harrington, Attorney-Adviser, or N. Sean Harrison, Special Counsel, Division of Corporation Finance, at (202) 551-3430, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-3628.

**SUPPLEMENTARY INFORMATION:** We are adopting new Rule 14a-20 and amendments to Schedule 14A<sup>1</sup> and Rule 14a-6<sup>2</sup> under the Securities Exchange Act of 1934 (“Exchange Act”).<sup>3</sup>

**I. Background**

In July 2009, we published for public comment<sup>4</sup> proposed amendments to the proxy rules under the Exchange Act to set forth certain requirements for U.S. registrants subject to Section 111(e) of

the Emergency Economic Stabilization Act of 2008 (“EESA”).<sup>5</sup>

Section 111(e) of the EESA, as amended by Section 7001 of the American Recovery and Reinvestment Act of 2009<sup>6</sup> on February 17, 2009, requires any entity that is a recipient of financial assistance under the Troubled Asset Relief Program (“TARP”) to “permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).”<sup>7</sup> Companies that have received financial assistance under the TARP are required to provide this separate shareholder vote during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding.<sup>8</sup> The shareholder vote required by Section 111(e) of the EESA is not binding on the board of directors of a TARP recipient, and such vote will not be construed as overruling a board decision or as creating or implying any additional fiduciary duty by the board.<sup>9</sup> The vote also will not be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.<sup>10</sup>

<sup>5</sup> 12 U.S.C. 5221(e).

<sup>6</sup> Public Law 111-5, 123 Stat. 115 (2009).

<sup>7</sup> We do not believe this provision changes the Commission’s rules for a smaller reporting company that is a TARP recipient under the EESA with respect to the compensation discussion and analysis (“CD&A”) disclosure. Our compensation disclosure rules, as set forth in Item 402 of Regulation S-K [17 CFR 229.402], permit smaller reporting companies to provide scaled disclosure that does not include CD&A.

<sup>8</sup> Section 111 of the EESA defines this period not to include any period during which the Federal Government “only holds warrants to purchase common stock of the TARP recipient.” See 12 U.S.C. 5221(a)(5).

<sup>9</sup> Section 111(e)(2) of the EESA [12 U.S.C. 5221(e)(2)].

<sup>10</sup> *Id.* Rule 14a-8 under the Exchange Act will continue to apply to shareholder proposals that relate to executive compensation. Rule 14a-8 provides shareholders with an opportunity to place a proposal in a company’s proxy materials for a vote at an annual or special meeting of shareholders. Under this rule, a company generally is required to include the proposal unless the shareholder has not complied with the rule’s procedural requirements or the proposal falls within one of the rule’s 13 substantive bases for exclusion. To date, the staff of the Division of Corporation Finance has considered two requests in which TARP recipients requested the staff’s concurrence that, given the shareholder advisory vote provision in Section 111(e) of the EESA, the companies could rely on Rule 14a-8(i)(9) [17 CFR 240.14a-8(i)(9)] (the exclusion for proposals that directly conflict with one of the company’s own proposals) or Rule 14a-8(i)(10) [17 CFR 240.14a-8(i)(10)] (the exclusion for proposals that have been substantially implemented) to

Continued

<sup>1</sup> 17 CFR 240.14a-101.

<sup>2</sup> 17 CFR 240.14a-6.

<sup>3</sup> 15 U.S.C. 78a *et seq.*

<sup>4</sup> *Shareholder Approval of Executive Compensation of TARP Recipients*, Release No. 34-60218 (July 1, 2009) [74 FR 32474] (hereinafter, the “Proposing Release”).