

3. In § 107.610, add paragraph (e) to read as follows:

**§ 107.610 Required Certifications for Loans and Investments.**

\* \* \* \* \*

(e) For each LMI Investment:

(1) A certification by the concern, dated as of the date of application for SBIC financing, as to the basis for its qualification as an LMI Enterprise,

(2) If the concern qualifies as an LMI Enterprise as defined in paragraph (2) of the definition of LMI Enterprise in § 107.50, an additional certification dated no later than the date 180 days after the closing of the LMI Investment, as to the location of the concern's employees or tangible assets or the principal residences of its full-time employees as of the date of such certification, and

(3) Certification(s) by the SBIC, made contemporaneously with the certification(s) of the concern, that the concern qualifies as an LMI Enterprise as of the date(s) of the concern's certification(s) and the basis for such qualification.

4. In § 107.835, redesignate paragraph (d) as paragraph (e) and add paragraph (d) to read as follows:

**§ 107.835 Exceptions to minimum duration/term of Financing.**

\* \* \* \* \*

(d) An LMI Investment with a term of at least one year; or

\* \* \* \* \*

5. In § 107.850, revise the introductory text of paragraph (a) to read as follows:

**§ 107.850 Restrictions on redemption of Equity Securities.**

(a) A Portfolio Concern cannot be required to redeem Equity Securities earlier than five years (or one year in the case of an LMI Investment) from the date of the first closing unless:

\* \* \* \* \*

6. In § 107.855, add paragraph (g)(12) to read as follows:

**§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses ("Cost of Money").**

\* \* \* \* \*

(g) *Charges excluded from the Cost of Money.* \* \* \*

(12) Royalty payments received under any LMI Investment if the royalty is based on improvement in the performance of the Small Business after the date of the financing.

7. In § 107.865, remove the "or" at the end of paragraph (d)(3), replace the period at the end of paragraph (d)(4) with "; or", add paragraph (d)(5), and

revise paragraph (e)(3) to read as follows:

**§ 107.865 Restrictions on Control of a Small Business by a Licensee.**

\* \* \* \* \*

(d) *Temporary Control permitted.* \* \* \*

(5) If your financing of the Small Business is an LMI Investment.

(e) *Control certification.* \* \* \*

(3) Your agreement to relinquish Control within five years (although you may, under extraordinary circumstances, request SBA's approval of an extension beyond five years). In the case of an LMI Investment with a term of less than five years, you must agree to relinquish Control within the term of the financing.

\* \* \* \* \*

Dated: May 27, 1999.

**Aida Alvarez,**  
*Administrator.*

[FR Doc. 99-25244 Filed 9-29-99; 8:45 am]

BILLING CODE 8025-01-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 21

[Docket No. SW-006; Special Condition No. 29-006-SC]

#### **Special Conditions: Garlick Helicopters, Inc. Model GH205A helicopters; 14 CFR Part 21.27(c), aircraft engines installed in surplus Armed Forces aircraft**

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

**ACTION:** Final special condition; request for comments.

**SUMMARY:** This special condition is issued for Garlick Helicopters, Inc. Model GH205A helicopters. This model helicopter will have a novel or unusual design feature(s) associated with the aircraft engines installed in surplus Armed Forces aircraft. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. This special condition contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of this special condition is September 22, 1999. Comments must be received on or before November 29, 1999.

**ADDRESSES:** Comments on this special condition may be mailed in duplicate

to: Federal Aviation Administration, Office of Regional Counsel, Attention: Rules Docket No. SW-006, 2601 Meacham Blvd., Fort Worth, Texas, 76137; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. SW-006. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas, 76193-0110, telephone (817) 222-5116, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected helicopter. In addition, the substance of this special condition has been subject to the public comment process in a prior instance. The FAA therefore finds that good cause exists for making this special condition effective upon issuance.

#### **Comments Invited**

Even though comments have been received on this engine special condition, interested persons are invited to submit such additional written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA. This special condition may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this special condition must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. SW-006." The postcard will be date stamped and returned to the commenter.

#### **Background**

On December 9, 1993, Garlick Helicopters, Inc. applied for a transport category type certificate for their Model GH205A helicopters that contain military surplus T53-L-13 engines. The

Model GH205A helicopters are former U.S. Army Model UH-1H or UH-1V helicopters.

For engines sold to the civilian aviation industry as surplus, the Department of Defense, the initial source of Garlick Helicopters, Inc.'s surplus military helicopter engines, makes no representation as to the compliance of its military engines with FAA airworthiness regulations. Once the engines enter military service, they are no longer subject to FAA operating limitations, surveillance, and quality assurance programs and, therefore, may not meet FAA standards or airworthiness requirements when released as surplus. Certain engine components may have exceeded the life limit or shelf life of the civil counterpart, may not have been produced under a FAA-approved quality system, or may lack documentation, operating records, or maintenance records.

Therefore, the FAA finds that the engine approval basis alone does not contain adequate or appropriate safety standards for engines installed in surplus military aircraft. 14 CFR § 21.27(e) permits the FAA to require an applicant to comply with special conditions or other airworthiness requirements necessary to ensure an adequate level of airworthiness of a 14 CFR 21.27 type design. Special conditions are airworthiness safety standards promulgated in accordance with § 11.28 and 21.16, which include public participation, and establishes a level of safety equivalent to that contained in the regulations.

#### General Discussion of Public Comments

On July 2, 1997, the FAA published in the **Federal Register** (62 FR 35872) a notice of proposed type certification basis. In that notice, the FAA requested public comments on this special condition. The FAA has carefully reviewed and considered all comments in the development of the type certification basis and the regulatory standards contained therein for Model GH205A helicopters. Comments relating to the special condition in that notice for the engine are addressed in this document. Because of the volume of comments, comments of a similar nature are answered as a group.

#### Discussion of Comments

Several commenters state that the military surplus Allied Signal (formerly Lycoming) T53-L-13 engines slated for use in the Model GH205A helicopters are unsuitable for civil use. The methodology by which the military tracks life-limited components differs

from that required for the T5313B civil engine counterpart; the U.S. Army procured certain critical engine spare parts from non-FAA approved vendors (defined as breakout parts); insufficient maintenance history is available for surplus engines; certain engine fuel system components do not meet FAA airworthiness requirements; service history for early versions of the T53-L-13 is not satisfactory; and military spare parts could co-mingle with the civil inventory and become indistinguishable.

The FAA agrees that blanket approval of all surplus engines installed on military Model UH-1H and UH-1V helicopters is not appropriate. However, the FAA has determined that equivalent airworthiness standards required under FAR 21.27(c) can be demonstrated. For this type certification basis, the engine approval basis for the T53-L-13 engine includes not only the airworthiness rules in existence at the time the engine was qualified for military service, but also includes certain requirements imposed by later 14 CFR Part 33 amendments. Each engine proposed for use on the Model GH205A must be presented for FAA approval with the proper historical record documenting service usage, maintenance history, and complete status and assessment of all life-limited parts. Further, each of these engines must undergo a teardown and inspection per FAA-approved procedures to identify and remove all "breakout" and suspect parts; be reworked, as required, into an FAA-approved configuration; be overhauled to a baseline specification; and be re-identified to reflect its approval for civil use. This process will include compliance with all relevant FAA Airworthiness Directives and military equivalent technical orders.

One commenter endorses the proposed special condition set forth for engine approval. The commenter states that strict adherence to the proposed engine certification basis and special conditions will enhance the airworthiness of the engines installed on Model GH205A helicopters. In addition, the commenter recommends that all FAA approval involving engine part lives and other changes to the type design should be processed by the Aircraft Certification Office (ACO) responsible for the military T53-L-13 engine civil counterpart.

The FAA agrees that the airworthiness approval of the T53-L-13 engine for the Model GH205A helicopter is an engine certification, and will be administered by the accountable ACO with support from various FAA offices.

Two commenters state that the military T53-L-13 engine should comply with the requirements of 14 CFR 33.17, Amendment 6, Fire Prevention, which addresses fire resistant external lines. Unlike its civil counterpart, the military T53 series engines do not incorporate fire shielding on lines that contain or convey flammable fluid.

The FAA agrees that the engine for Model GH205A helicopters must comply with the fire prevention requirements, that is, the external lines which convey flammable fluids must be at least fire resistant; and that the possibility of fire hazard of flammable fluid carrying lines must be minimized by appropriate shielding. Section 13.202 of CAR 13 at Amendments 13-1 through 13-3, the type certificate basis for the Model GH205A engine, prescribes the above fire prevention requirements with which the applicant must comply.

#### Type Certification Basis

Under the provisions of 14 CFR 21.17, Garlick Helicopters, Inc. must show that each T53-L-13 surplus Armed Forces helicopter engine installed in the Model GH205A helicopter meets the applicable provisions of § 21.27(c), as amended by Amendment 21-59 in effect on March 9, 1987.

Specifically, in accordance with § 21.27(c), the Model GH205A helicopter engine approval basis is as follows:

- Part 13 of the Civil Air Regulations (CAR), effective August 12, 1957, as amended by Amendment 13-1;
- Part 13 of the CAR, effective May 17, 1958, as amended by Amendment 13-2;
- Part 13 of the CAR, effective October 1, 1959, as amended by Amendment 13-3;
- Part 33 of the Federal Aviation Regulations (FAR) as noted below:
  - § 33.4 of the FAR, effective October 14, 1980, as amended by Amendment 33-9;
  - § 33.14 of the FAR, effective March 26, 1984, as amended by Amendment 33-10; and
  - Any special conditions required by the Administrator.

If the Administrator finds that the applicable airworthiness regulations of 14 CFR 21.27 do not contain adequate or appropriate safety standards for the Model GH205A helicopter engines because of a novel or unusual design feature, special conditions are prescribed under the provisions of §§ 21.16 and 21.27(e).

In addition to the applicable airworthiness regulations and special conditions, the Model GH205A helicopter must comply with the noise

certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92-574, the "Noise Control Act of 1972."

Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

#### **Novel or Unusual Design Features**

Model GH205A helicopters will incorporate the following novel or unusual design features: a surplus Armed Forces helicopter engine installed in a transport category rotorcraft. 14 CFR 21.27(c) requires that the engines installed in surplus Armed Forces aircraft for which a type certificate is sought under this section must provide substantially the same level of airworthiness as would be provided if the engine were type certificated under Part 33 of the Federal Aviation Regulations. To provide the required level of airworthiness, in addition to the Model GH205A helicopter engine approval basis, the following areas require a special condition in order to provide substantially the same level of airworthiness as would be provided if the engines were type certificated under Part 33 in accordance with 14 CFR 21.27(c):

- Engine and maintenance records
- Military unique and breakout hardware
- Conformity
- Life limited engine parts
- Continued Airworthiness
- Identification marking
- Airworthiness Directives (AD's)
- Overhaul

#### **Applicability**

As discussed above, this special condition is applicable to Model GH205A helicopters. Should Garlick Helicopters, Inc. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

#### **Conclusion**

This action affects only certain novel or unusual design features on one model

of helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Garlick Helicopters, Inc. Model GH205A helicopter is imminent and the substance of these special conditions has been subjected to a comment period in a prior instance, the FAA finds that good cause exists to make this special condition effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

#### **List of Subjects in 14 CFR Part 21**

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for these special conditions is as follows: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701-44702, 44709, 44711, 44713, 44715, 45303.

#### **The Special Conditions**

Accordingly, pursuant to the authority delegated to me by the Administrator, in addition to the Model GH205A helicopter engine approval basis, the following special condition is issued as part of the type certification basis for the Garlick Helicopters, Inc. Model GH205A helicopter.

##### **1. Engine and Maintenance Records**

The following data is required:

(a) Records establishing that the engine, components, and parts that have been installed since original manufacture were produced under an FAA-approved production and inspection system.

(b) Complete historical records maintained by the military, the manufacturer, and any other prior owner(s) pertaining to inspection, modification, repair, alteration, maintenance, and operation of the engine from the time of acceptance by the military.

(c) A report that the engine has an equivalent level of airworthiness substantiated by the engine approval basis described previously. The report will be required to address the provisions of CAR 13 and applicable part 33 sections on a paragraph-by-paragraph basis.

##### **2. Military Unique and Breakout Hardware**

Military unique and breakout parts are engine parts for which the military utilized the manufacturer's design drawings and specifications, but the parts were produced specifically for the military by non FAA-approved manufacturers. All military unique and breakout parts must be replaced with parts made by FAA production approval holders.

##### **3. Conformity**

The applicant must substantiate that the engine conforms to the FAA-approved type design of its civil counterpart. The manufacturing records must include any deviation from the FAA-approved type design and quality control system that was in existence at the time of manufacture. With regard to maintenance, the applicant must establish that any alterations, modifications, or repairs were accomplished in compliance with FAA-approved data by maintenance facilities certificated by the FAA. When this cannot be established, the alterations or repairs must be appropriately substantiated in accordance with the applicable regulations and approved by the FAA, or the altered or repaired hardware must be removed. The operating records must show whether the engine was utilized outside of the operating envelope specified for the civil version engine including speed, temperature, torque, engine mount load, and other engine limits. In addition, the operational history records must show whether the engine has been subjected to other extreme operating conditions such as accidents, fire, or missile drone target shooting.

##### **4. Life-limited Engine Parts**

The military mission cycle, with or without the same type design, generally differs from civil aircraft mission cycles. As such, the life cycle limits for engine rotating parts (such as disks, spacers, hubs, and shafts of the compressors and turbines) and life-limited stationary engine components may not be directly transferable between military and civil engines having the same hardware. To perform an accurate cycle adjustment on a military life-limited engine part, there must be a record of operating hours, operating history, and mission profile. Unlike civil missions, many military operations subject engine hardware to a wide variance in strain range, thus subjecting these components to multiple partial cycles for each flight hour. The applicant must have a FAA-approved process for screening military engine

operating and maintenance records to insure their accuracy.

For engines lacking complete, accurate time-in-service (TIS) and operating records, the time remaining on life-limited parts is considered unknown, therefore, such parts are considered unairworthy and must be removed from service. For those engines having accurate TIS and service history records, the applicant must develop a conversion factor(s) to convert TIS of past engine usage in military service to the equivalent civil engine cycles which includes cumulative partial cycles. The procedure for such conversions must be submitted to and approved by the FAA. The applicant must use the published life limit in civil engine manuals for all life-limited engine hardware to establish the remaining cycles. If applicable, the applicant must also develop procedures approved by the FAA to account for anticipated additional life to be consumed from other aircraft operating modes, such as external load and repetitive heavy lift operations, that are not considered in the published life in the civil engine manuals.

#### 5. Continued Airworthiness

The applicant will be required to provide Instructions for Continued Airworthiness in accordance with 14 CFR 33.4. The type certificate holder must report failures, malfunctions, and defects; support required design changes; and maintain records concerning the continued airworthiness of the engines in accordance with 14 CFR Parts 21, 33, and 43.

#### 6. Identification Marking

The existing military identification marking (data plate) shall remain attached to the engine. A supplemental data plate, in compliance with the requirements of part 45, will be used to further identify the engine.

#### 7. Airworthiness Directives (AD's)

The type certificate holder must comply with all FAA AD's pertaining to the equivalent civil engine and with certain military Time Compliance Technical Orders (i.e., the military equivalent to AD's) that are approved by the FAA for the engine.

#### 8. Overhaul

The engine must be newly overhauled, in accordance with the current civil engine model overhaul manual(s), by a maintenance facility certificated by the FAA to perform such overhauls.

Issued in Fort Worth, Texas on September 22, 1999.

**Henry A. Armstrong,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 99-25452 Filed 9-29-99; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98-SW-80-AD; Amendment 39-11342; AD 99-20-12]

RIN 2120-AA64

#### **Airworthiness Directives; MD Helicopters Inc. Model 369D, D369E, 369FF, 500N, and 600N Helicopters**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to MD Helicopters, Inc. Model 369D, 369E, 369FF, 500N, and 600 N helicopters, that requires replacing the oil cooler blower bracket (bracket). This amendment is prompted by three reports of cracked brackets. The actions specified by this AD are intended to prevent failure of a bracket, loss of cooling of engine oil and transmission oil, and subsequent forced landing.

**EFFECTIVE DATE:** November 4, 1999.

**FOR FURTHER INFORMATION CONTACT:** Bruce Conze, Aerospace Engineer, FAA, Los Angeles Aircraft, Certification Office, 3960 Paramount Blvd, Lakewood, California 90712, telephone (562) 627-5261, fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to MD Helicopters Inc. Model 369D, 369E, 369FF, 500N, and 600N helicopters was published in the **Federal Register** on June 23, 1999 (64 FR 33447). That action proposed to require replacing the bracket.

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 100 helicopters of U.S. registry will be affected by this AD, that it will take

approximately 2.5 work hours per helicopter to replace the bracket, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$225 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$37,500.

The regulations adopted therein will 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, 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:

**AD 99-20-12 MD Helicopters, Inc. (MDHI):** Amendment 39-11342. Docket No. 98-SW-80-AD.

**Applicability:** Model 369D, 369E, 369FF, 500N, and 600N helicopters, with oil cooler blower bracket (bracket), part number (P/N)