

access by statute, regulation or rule of law, and is capable of being reproduced by transmission, printing, or otherwise. The credit union must maintain the necessary equipment or software to permit an examiner to access the records during the examination process.

- 9. Add new Appendix B to part 749 to read as follows:

**Appendix B to Part 749—Catastrophic Act Preparedness Guidelines**

Credit unions often look to NCUA for guidance on preparing for a catastrophic act. While NCUA has minimal regulation in this area,<sup>1</sup> as an aid to credit unions it is publishing this appendix of suggested guidelines. It is recommended that all credit unions develop a program to prepare for a catastrophic act. The program should be developed with oversight and approval of the board of directors. It is recommended the program address the following five elements:

- (1) A business impact analysis to evaluate potential threats;
- (2) A risk assessment to determine critical systems and necessary resources;
- (3) A written plan addressing:
  - i. Persons with authority to enact the plan;
  - ii. Preservation and ability to restore vital records;
  - iii. A method for restoring vital member services through identification of alternate operating location(s) or mediums to provide services, such as telephone centers, shared service centers, agreements with other credit unions, or other appropriate methods;
  - iv. Communication methods for employees and members;
  - v. Notification of regulators as addressed in 12 CFR 748.1(b);
  - vi. Training and documentation of training to ensure all employees and volunteer officials are aware of procedures to follow in the event of destruction of vital records or loss of vital member services; and
  - vii. Testing procedures, including a means for documenting the testing results.
- (4) Internal controls for reviewing the plan at least annually and for revising the plan as circumstances warrant, for example, to address changes in the credit union's operations; and
- (5) Annual testing.

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**BILLING CODE 7535-01-P**

<sup>1</sup> See 12 CFR 748.1(b) concerning a FICU's reporting of any catastrophic act that occurs at its office to its regional director and 12 CFR 749.3 concerning the location of a FICU's vital records center to avoid the simultaneous loss of both sets of records in the event of disaster.

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 23**

[Docket No. CE261; Special Conditions No. 23-201-SC]

**Special Conditions: Centex Aerospace, Inc.; Cirrus Design Corporation Model SR22; Installation of a Full Authority Digital Engine Control (FADEC) Engine**

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

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

**SUMMARY:** These special conditions are issued for the Cirrus Design Corporation, Model SR22 airplane as modified by Centex Aerospace, Inc. This airplane as modified by Centex Aerospace, Inc. will have a novel or unusual design feature(s) associated with the installation of a full authority digital engine control (FADEC) engine. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain 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 these special conditions is July 26, 2007.

Comments must be received on or before September 4, 2007.

**ADDRESSES:** Mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE-7, Attn: Rules Docket No. CE261, 901 Locust, Kansas City, MO 64106. You may deliver two copies to the Regional Counsel at the above address. Mark your comments: Docket No. CE261. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Peter L. Rouse, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329-4135; facsimile (816) 329-4090.

**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 aircraft. In addition, the substance of these special conditions has been subject to the

public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

**Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

**Background**

On, March 15, 2004, Centex Aerospace, Inc. applied for a supplemental type certificate for the Cirrus Model SR22 to install a full authority digital engine control in the Cirrus Model SR22. Centex Aerospace, Inc. plans to install a Teledyne Continental Motors model IOF-550-N engine in a Cirrus Design Corporation Model SR-22 airplane. This type certified engine, approved under FAA Type Certificate E3SO; Revision 7, dated February 4, 2002, incorporates Full Authority Digital Electronic Controls (FADEC) fuel and ignition control system. Even though the engine control system is certificated as part of the engine and does not interface or share data with any of the airplane systems, the installation of an engine with an electronic control system requires evaluation due to critical environmental effects and possible effects on or by other airplane systems. For example,

indirect effects of lightning, radio interference with other airplane electronic systems, shared engine and airplane data and power sources.

The Cirrus SR 22 is currently approved under Type Certificate No. A00009CH. The Cirrus SR-22 is a 3,400 pound single-engine, four-place, fixed-gear airplane powered by a 310 hp reciprocating engine. It has a conventional tractor configuration and utilizes composites for the structure. Some unique features of the SR-22 include sidestick controls and a ballistic recovery system, and a single combination throttle/propeller control lever.

The considerations for installation of digital electronic engine control systems were not envisaged and are not adequately addressed in 14 CFR part 23. The regulatory requirements in 14 CFR part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in § 23.1309. However, when § 23.1309 was developed, the use of highly airframe integrated electronic control systems for engines was not envisioned. Therefore, the § 23.1309 requirements were not applicable to systems certificated as part of the engine (reference § 23.1309(f)(1)). The parts of the system that are not certificated with the engine could be evaluated using the criteria of § 23.1309. However, the integral nature of systems such as these makes it unfeasible to evaluate the airplane portion of the system without including the engine portion of the system. Section 23.1309(f)(1) prevents complete evaluation of the installed airplane system since evaluation of the engine system's effects is not required.

#### **Type Certification Basis**

Under the provisions of § 21.101, Centex Aerospace, Inc. must show that the Cirrus Design Corporation Model SR22, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A00009CH, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A00009CH are as follows:

Model SR22: Part 23 of the Federal Aviation Regulations effective February 1, 1965, as amended by 23-1 through 23-53, except as follows: 23.301 through Amendment 47 23.855, 23.1326, 23.1359, not applicable

Federal Aviation Regulations 36 dated December 1, 1969, as amended by current amendment as of the date of type Certification.

Equivalent Safety Items:

Equivalent Levels of Safety finding (ACE-96-5) made per the provisions of 14 CFR part 23, § 23.221; Refer to FAA ELOS letter dated June 10, 1998 for models SR20, SR22.

Equivalent Levels of Safety finding (ACE-00-09) made per the provisions of 14 CFR part 23, §§ 23.1143(g) and 23.1147(b); Refer to FAA ELOS letter dated September 11, 2000, for model SR22.

Special Conditions:

23-ACE-88 for ballistic parachute  
23-134-SC for protection of systems for High Intensity Radiated Fields (HIRF)  
23-163-SC for inflatable restraint system

In addition, if the regulations incorporated by reference do not provide adequate standards regarding the change, the applicant must comply with certain regulations in effect on the date of application for the change.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23, § 23.1309) do not contain adequate or appropriate safety standards for the Model SR22 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

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

The Centex Aerospace, Inc. modified Cirrus Model SR22 will incorporate the following novel or unusual design features:

An engine that includes an electronic control system with Full Authority Digital Engine control (FADEC) capability.

#### **Discussion**

The regulatory requirements in 14 CFR part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in § 23.1309. However, when § 23.1309 was developed, the use of electronic

control systems for engines were not envisioned. Therefore, the § 23.1309 requirements were not applicable to systems certificated as part of the engine (reference § 23.1309(f)(1)). Although the parts of the system that are not certificated with the engine could be evaluated using the criteria of § 23.1309, the integral nature of systems such as these makes it unfeasible to evaluate the airplane portion of the system without including the engine portion of the system. However, § 23.1309(f)(1) again prevents complete evaluation of the installed airplane system since evaluation of the engine system's effects is not required.

The Policy Statement; Installation of Electronic Engine Control for Reciprocating Engine, PS-ACE100-2004-10024, states:

The current Small Airplane Directorate Standards Office policy on EEC installation in small airplanes, under § 23.1309, has been to issue two special conditions. The first special condition applies § 23.1309(a) through (e) to the propulsion system installation. The second special condition is protection of the EEC from exposure to HIRF. The evaluation should be limited to the interfaces of the engine/control system and verification that none of the assumptions made for part 33 certification of the engine are invalidated by the installation. The analysis should not extend into data submitted and approved as part of the engine certification program.

The Lightning and HIRF certification requirements for design and installation approval of electronic equipment are presented in 14 CFR part 23, § 23.1309, and Advisory Circular (AC) 23.1309-1C and AC 23-17A. However, a typical misinterpretation is that the concepts in AC 23.1309-1C can be applied to engine control systems to reduce the certification requirements for single engine airplanes.

The EEC is certified as part of the engine design certification, the certification requirements for engine control systems must be driven by 14 CFR part 33 and the two advisory circulars; AC 33.28-1 and AC 33.28-2. Both of those Advisory Circulars clearly state that electronic engine controls must provide the same level of safety as traditional mechanical engine controls. We believe the EEC systems have additional failure modes that were not present in purely mechanical engine controls. To ensure an equivalent level of safety, the FAA position has always been:

EEC System with catastrophic and hazardous failure conditions, without an acceptable conventional engine control backup, lightning and HIRF protection levels are required to be certified to the levels for catastrophic failure conditions.

The environmental certification tests are normally conducted with the appropriate category and level of RTCA/DO-160. For HIRF, it is at the environment in the notice or category W of section 20 of RTCA/DO-160. For indirect effects of lightning, it is at the appropriate category and level for pin injection tests and multiple stroke and multiple burst tests of section 22 of RTCA/DO-160. When appropriate, engine certification data may be used when showing compliance with this requirement. However, the effects of the installation on this data must be addressed.

The applicant will comply with the following special condition:

The installation of the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) at Amendment 23-49. The intent of this requirement is not to reevaluate the inherent hardware reliability of the control itself, but rather determine the effects, including environmental effects addressed in § 23.1309(e), on the airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement; however, the effects of the installation on this data must be addressed.

With respect to compliance with § 23.1309(e), the levels required for compliance shall be at the levels for catastrophic failure conditions.

#### Applicability

As discussed above, these special conditions are applicable to the Cirrus Model SR22 as modified by Centex Aerospace, Inc. Should Centex Aerospace, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A00009CH, to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well.

#### Conclusion

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

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and

good cause exists for adopting these special conditions 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 described above.

#### List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

#### Citation

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

#### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Cirrus Model SR22 airplanes as modified by Centex Aerospace, Inc.

##### 1. Electronic Engine Control System

The installation of the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) at Amendment 23-49. The intent of this requirement is not to reevaluate the inherent hardware reliability of the control itself, but rather determine the effects, including environmental effects addressed in § 23.1309(e), on the airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement; however, the effects of the installation on this data must be addressed.

With respect to compliance with § 23.1309(e), the levels required for compliance shall be at the levels for catastrophic failure conditions.

Issued in Kansas City, Missouri on July 26, 2007.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7-14933 Filed 8-1-07; 8:45 am]

**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 171

RIN 3038-AC43

#### Rules Relating To Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration and Member Responsibility Actions

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final Rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") hereby amends 17 CFR Part 171, by adding language to Commission Rule § 171.9(b) (manner of service), allowing for service by facsimile ("fax") or by electronic means ("e-mail"), making either means of service effective upon receipt. The amendment will also indicate that parties who consent to accepting service of documents by electronic means or fax in the underlying NFA action also consent to accepting service by the same means in proceedings under Part 171.

**DATES:** August 2, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Thuy Dinh, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5128.

**SUPPLEMENTARY INFORMATION:** On October 9, 1990, the Commission adopted Part 171 to establish standards and procedures for its review of decisions of registered futures associations such as the National Futures Association ("NFA") in disciplinary actions, membership denial actions, registration actions and member responsibility actions. 55 FR 41061. From the time Part 171 was promulgated until now, Commission Rule 171.9(b) provides only for service by personal delivery (effective upon receipt) or service by mail (effective upon deposit). On May 22, 2007, the NFA asked the Commission to amend language to Rule 171.9(b), to allow service by fax and e-mail. In proposing the amendment, NFA cited three supporting arguments: (1) To avoid undue delay (due to cautionary procedures adopted in the post-September 11 climate, postal mail to U.S. government agencies is often delayed and thus is not as effective as it used to be prior to September 11); (2) to take advantage of technological means of service, which will be faster and less costly than the mails; (3) to