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Assistant Executive Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No.: FAA-2007-28501; Amendment No. 33-26]

RIN 2120-AJ05

Airworthiness Standards; Aircraft Engine Standards for Pressurized Engine Static Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending the aircraft engine type certification standards by adding standards for pressurized engine static parts that are equivalent to those already adopted by the European Aviation Safety Agency. This rule establishes uniform standards for the certification of these parts in the United States and in Europe. U.S. manufacturers already meet the European requirements.

DATES: This amendment becomes effective November 24, 2008.

FOR FURTHER INFORMATION CONTACT: Tim Mouzakis, Engine and Propeller Directorate Standards Staff, ANE-110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (781) 238-7114; fax (781) 238-7199, e-mail: timoleon.mouzakis@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General Requirements." Under that section, the FAA is charged with prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce, including minimum safety standards for aircraft engines.

This regulation is within the scope of that authority because it updates the existing regulations for aircraft engine pressurized static parts.

Summary of the NPRM

A Notice of Proposed Rulemaking (NPRM) was published on September 6, 2007 (72 FR 18136) that proposed changes to requirements for pressurized engine static parts in Title 14 Code of Federal Regulations part 33. The comment period for the NPRM closed on December 5, 2007.

Summary of the Final Rule

This final rule on requirements for pressurized engine static parts contains minor changes from the NPRM. We made changes to two sections, §§ 33.71 and 33.91, in response to the comments we received and our own review of the proposed rule. This final rule harmonizes FAA and EASA regulations for part 33 requirements related to pressurized engine static parts.

Summary of Comments

There were five commenters. Rolls-Royce, General Aviation Manufacturers Association (GAMA), and Airbus supported the rule and suggested minor changes, which are discussed below. General Electric and an individual supported the rule and did not suggest changes.

The comments relate to the following general areas:

- Component tests; and
- Examples of static parts.

Discussion of the Final Rule

Component Tests

Pressurized engine static parts operate at significant pressures and § 33.64 prescribes tests for these parts at maximum working and operating pressures. Rolls-Royce and GAMA commented that § 33.91, Engine component tests, should be modified as there was an inconsistency between proposed § 33.64 and existing § 33.91(c), which prescribes testing of pressurized hydraulic fluid tanks. Rolls-Royce and GAMA noted that depending on the maximum possible and maximum working pressures, as described in § 33.64, and the maximum operating pressure as described in § 33.91, the two rules could result in two different testing requirements for a given component.

The FAA agrees that the two rules could be interpreted as separate and distinct test requirements, and that testing pressurized hydraulic fluid tanks falls under the requirements of the new § 33.64. We have also determined that proposed § 33.64 and § 33.71,

Lubrication system, could be interpreted as two distinct testing requirements for a single component. Section 33.71(c)(9) prescribes testing for maximum operating temperature and pressure for pressurized oil tanks. These tanks should be tested under the requirements of the new § 33.64.

In the final rule, therefore, we are modifying §§ 33.71(c)(9) and 33.91(c) by replacing existing testing requirements for pressurized tanks with a reference to meeting the requirements of § 33.64. This change is consistent with EASA regulations for pressurized hydraulic fluid and oil tanks.

Examples of Static Parts

In the NPRM discussion, we noted examples of pressurized engine static parts which include compressor, combustion, diffuser, and turbine cases; heat exchangers; bleed valve solenoids; starter motors; and fuel, oil and hydraulic system components. Airbus commented that the examples of pressurized static parts included in the preamble of the NPRM should be expanded to include associated ducts and fittings.

The purpose of this NPRM discussion was to provide examples to help the applicant identify the type of parts affected by this rule. The examples provided in the NPRM do not represent a complete list of pressurized static parts. It is the applicant's responsibility to ensure all applicable pressurized engine parts are identified. We have made no changes to the rule in response to this comment.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no current or new requirement for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

The NPRM explained that, presently, engine manufacturers must demonstrate compliance with both part 33 and EASA certification standards to market turbine engines in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new turbine engine.

In the NPRM, we explained that EASA has adopted this standard as CS-E 640 Pressure Loads. This final rule adds the provisions of CS-E 640 Pressure Loads to part 33 as a new § 33.64, Pressurized engine static parts, under Subpart E—Design and Construction; Turbine Aircraft Engines.

We estimated that no incremental costs were associated with this rule because our review of U.S. turbine aircraft engine manufacturers revealed that they currently design their engines to meet the standards of CS-E 640 Pressure Loads. Because our rule adopts this standard, manufacturers will incur no additional costs resulting from this final rule.

By creating common part 33 and EASA requirements, turbine engine manufacturers need to design to only one certification standard. We have not attempted to quantify the cost savings from this rulemaking, but note that harmonization in this area will contribute to the overall savings that certification to one standard provides. We have also concluded that further analysis is not required because turbine engine manufacturers are already designing to EASA's CS-E 640 Pressure Loads.

As discussed above, we received comments on the proposed rule and, where appropriate, have made changes in the final rule. However, we received no comments on the economic evaluation of the proposed rule, and the changes made to the final rule, as a result of other comments, did not affect the economic evaluation of the final rule. Therefore, as in the NPRM, the FAA concludes that this rule is expected to have minimal cost with positive net benefits and a complete regulatory evaluation was not prepared.

We have determined that this final rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a

substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The NPRM was expected to be minimal cost and we concluded "* * * that this rule would not have a significant economic impact on a substantial number of small entities." We certified that a full regulatory flexibility analysis was not required and we requested comments on this determination.

We received no comments on the regulatory flexibility analysis and have made no changes to our initial determination because comments received on the proposal did not affect our regulatory flexibility analysis determination. The final rule, like the NPRM, is minimal cost with positive net benefits.

Therefore, as the Acting FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and has determined that it is in accord with the Trade Agreements Act as the final rule uses European standards as the basis for United States regulation.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in

1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million.

This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking,

ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in 14 CFR Part 33

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

■ 1. The authority citation for part 33 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

■ 2. Add § 33.64 to Subpart E to read as follows:

§ 33.64 Pressurized engine static parts.

(a) Strength. The applicant must establish by test, validated analysis, or a combination of both, that all static parts subject to significant gas or liquid pressure loads for a stabilized period of one minute will not:

- (1) Exhibit permanent distortion beyond serviceable limits or exhibit leakage that could create a hazardous condition when subjected to the greater of the following pressures:

(i) 1.1 times the maximum working pressure;

(ii) 1.33 times the normal working pressure; or

(iii) 35 kPa (5 p.s.i.) above the normal working pressure.

(2) Exhibit fracture or burst when subjected to the greater of the following pressures:

(i) 1.15 times the maximum possible pressure;

(ii) 1.5 times the maximum working pressure; or

(iii) 35 kPa (5 p.s.i.) above the maximum possible pressure.

(b) Compliance with this section must take into account:

(1) The operating temperature of the part;

(2) Any other significant static loads in addition to pressure loads;

(3) Minimum properties representative of both the material and the processes used in the construction of the part; and

(4) Any adverse geometry conditions allowed by the type design.

■ 3. Amend § 33.71 by revising paragraph (c)(9) to read as follows:

§ 33.71 Lubrication system.

* * * * *

(c) * * *

(9) Each unpressurized oil tank may not leak when subjected to a maximum operating temperature and an internal pressure of 5 p.s.i., and each pressurized oil tank must meet the requirements of § 33.64.

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■ 4. Amend § 33.91 by revising paragraph (c) to read as follows:

§ 33.91 Engine component tests.

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(c) Each unpressurized hydraulic fluid tank may not fail or leak when subjected to a maximum operating temperature and an internal pressure of 5 p.s.i., and each pressurized hydraulic fluid tank must meet the requirements of § 33.64.

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Issued in Washington, DC, on September 15, 2008.

Robert A. Sturgell,
Acting Administrator.

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