states that fees shall recover the full cost incurred by the government.

Congress has been made expressly aware of the fact that the agency has been setting fees at a level to maintain a reasonable balance in the account since at least FY 2002. Each year since FY 2002, Congress asked APHIS to submit information on AQI user fee collections, including the balance in the reserve, and each year, APHIS has advised that its collections have resulted in a positive reserve balance. Additionally, on several occasions, the U.S. Government Accountability Office (GAO) has reported to Congress on APHIS' maintenance of the reserve. *See* GAO, Federal User Fees: A Design Guide, GAO–08–386SP (May 2008) noting that ''the AQI fee statute gives APHIS permanent authority to use the collected fees and APHIS maintains a reserve in case of emergency''; GAO, Agricultural Quarantine Inspection Fees: Major Changes Needed to Align Fee Revenues with Program Costs, GAO–13–268 (March 2013) discussing maintenance of AQI reserve; GAO, Federal User Fees: Fee Design Options and Implications for Managing Revenue Instability, GAO–13–820 (September 2013) discussing same; GAO, Federal User Fees: Key Considerations for Designing and Implementing Regulatory Fees, GAO–15–718 (September 2015) discussing same.

APHIS has consistently explained in past rules that the reserve fund provides ''a means to ensure the continuity of AQI services in cases of fluctuations in activity volumes, bad debt, carrier insolvency, or other unforeseen events, such as those of September 11, 2001, which . . . resulted in substantial cost increases for AQI programs and lower-than-anticipated revenues.'' *See, e.g.,* 69 FR 71660–71664. At various times since AQI user fees were established, as a result of service demands, APHIS has had to rely on the AQI reserve fund to maintain its operations, nearly draining the reserve on at least one occasion. *See* 64 FR 62090. In December 2004, APHIS reported in an interim rulemaking that it was close to running out of money altogether. *See* 69 FR 71661. The reserve fund allows the program to ensure the continuity of services even under these service constraints, and therefore constitutes a cost of providing the services, as permitted by subsection 136a(a)(1)(A).

Even when user fees are set at a level that keeps pace with current costs, the 3-month temporal lag between the end of the fiscal year and the conclusion of the calendar year inherently results in a significant delay in fee remittances. *See* 64 FR 43106. Because of cash management issues inherent in the program, the bulk of users remit their payments on a quarterly basis ''with monies not remitted to APHIS until 1 month after the end of the quarter in which they were collected,'' which is long after APHIS and U.S. Customs and Border Protection (CBP) have performed their necessary services in connection with the AQI program. *See* 71 FR 49984. This remittance process was developed to offset some of the burden on the users for collecting fees on the government's behalf, such as with the airline passenger fee, by allowing them to retain any interest paid on collections they hold in trust. Collecting fees to cover these costs required to run the AQI program, which may go over and beyond the specific operational costs of a particular inspection but nonetheless fall within the scope of operating the program, reasonably constitutes ''the costs of administering this subsection'' within the meaning of 21 U.S.C. 136a(a)(1)(B).

Because Congress has not provided specific guidance to APHIS on how to interpret 21 U.S.C. 136a(a)(1)(A) and (B), we construe these sections as providing authority to continue funding a reserve in order to ensure continuity of services as well as to protect the program from instability resulting from funding flow uncertainty, bad debt, and non-recurring financial obligations. Section (1)(A) provides congressional authority to set and collect fees to cover the cost of providing AQI services ''in connection'' with the arrival at a port in the customs territory of the United States. *See* 21 U.S.C. 136a(1)(A). Certain costs, such as upgrading facilities and replacing broken equipment, are not reoccurring costs and are therefore impossible to account for as line items in the court-approved ABC methodology for setting user fees. These onetime costs are still incurred ''in connection'' with the AQI program and must be factored into the overall user fees, as the statute demands full cost recovery. As such, there is no way to fund these obligations other than by accessing the AQI reserve.

Additionally, section (1)(B) demands that APHIS ''cover the cost of administering [the AQI program].'' *See* 21 U.S.C. 136a(a)(1)(B). As stated above, there is a significant temporal lag between the rendering of services by APHIS and CBP and the collection of fees to cover these services. Sometimes, fees are not collected at all even though the services have already been performed. For instance, bad debt may result from a commercial airline filing for bankruptcy. *See* 71 FR 49985. Administratively, if a bad debt arises, the Act requires APHIS to cover it since the services have already been performed and the costs have already been incurred. Therefore, a reserve is essential to prevent the AQI program from running a deficit, which could result in personnel furloughs or interruptions in service. Such interruptions would significantly increase the risk that the United States could be exposed to animal and plant pests from foreign countries.

The Court affirmed APHIS' cost methodology and the sufficiency of its data, and expressly did not vacate any portion of the existing rule. This interpretative rule relates only to the legal authority for the reserve component of the AQI User Fee Program. The final rule, which took effect in 2015, 80 FR 66748, remains in force, *Air Transport Ass'n,* 317 F. Supp. 3d at 392. Accordingly, this interpretive rule does not affect, inter alia, the user fee calculation with respect to the AQI Reserve.

Authority: 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–08394 Filed 4–25–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2019–0304; Special Conditions No. 23–292–SC]

Special Conditions: Costruzioni Aeronautiche Tecnam S.P.A., Model P2012 Airplane; Electronic Engine Control System Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Costruzioni Aeronautiche Tecnam S.P.A., Model P2012 airplane. This airplane will have a novel or unusual design feature associated with installation of an engine that includes an electronic engine control system. 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 April 26, 2019. We must receive your comments by May 28, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0304 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Federal Aviation Administration, Aircraft Certification Service, Policy & Innovation Division, Small Airplane Standards Branch, AIR–691, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–3239; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The FAA has determined, in accordance with 5 U.S. Code §§ 553(b)(3)(B) and 553(d)(3), that notice and opportunity for prior public comment hereon are unnecessary because substantially identical special conditions have been subject to the public comment process in several prior instances such that the FAA is satisfied that new comments are unlikely. For the same reason, the FAA finds that good cause exists for making these special conditions 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.

Special conditions No.	Company/airplane model
23–253–SC [1] ..	Diamond Aircraft Industries/ Model DA–40NG.
23–267–SC [2] ..	Cirrus Design Corporation/ Model SF50.
23–282–SC [3] ..	Pilatus Aircraft Ltd./Model PC–24.

[1] *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSC.nsf/0/1A102658468C62D386257950004D7183?OpenDocument.*

[2] *https://www.govinfo.gov/app/details/FR-2015-09-23/2015-24156/summary*

[3] *https://www.govinfo.gov/app/details/FR-2017-07-17/2017-14936.*

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 will consider all comments we receive on or before 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.

Background

On February 28, 2018, Costruzioni Aeronautiche Tecnam S.P.A. (Tecnam) applied for FAA validation of its type certificate for its new Model P2012 airplane. The Model P2012 is a normal category, metallic, non-pressurized, high wing, monoplane that will seat nine passengers and two flightcrew. Two wing mounted Lycoming piston engines driving four bladed variable pitch constant speed MT-Propeller Entwicklung GmbH Model MTV–14–B–C–F/CF195–30b propellers power the airplane. The airplane has fixed tricycle landing gear, a Garmin G1000 NXi avionics suite, and a maximum takeoff weight of 7,937 pounds.

The Model P2012 is equipped with two Lycoming Model TEO–540–C1A engines, each using an electronic engine control (EEC) system, commonly referred to as a full authority digital engine control (FADEC), instead of a traditional mechanical control system. Although the EEC is certificated with the engine, the installation of an EEC requires evaluation due to critical environmental effects and possible effects on or by other airplane systems such as; indirect effects of lightning, radio interference with other airplane electronic systems, and shared engine, airplane data, and power sources.

The regulatory requirements in Title 14, Code of Federal Regulations (CFR) part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in §§ 23.1306, 23.1308, and 23.1309. However, when § 23.1309 was published, the use of EECs for engines was not envisioned. The integral nature of these systems makes it necessary to ensure proper evaluation of the airplane functions, which may be included in the EEC, and that the installation does not degrade the EEC reliability approved under part 33 during engine type certification. Sections 23.1306(a) and 23.1308(a) apply to the EEC to ensure it remains equivalent to a mechanical only system, which is not generally susceptible to the High Intensity Radiated Fields (HIRF) and lightning environments.

In some cases, the airplane in which the engine is installed determines a higher classification than the engine controls are certificated for, requiring the EEC systems be analyzed at a higher classification. As of November 2005, EEC special conditions mandated the § 23.1309 classification for loss of EEC control as catastrophic for any airplane. This is not to imply an engine failure is classified as catastrophic, but that the EEC must provide an equivalent reliability to mechanical engine controls. In addition, §§ 23.1141(e) and 25.901(b)(2) provide the fault tolerant design requirements of turbine engine mechanical controls to the EEC and ensure adequate inspection and maintenance interval for the EEC.

Part 23 did not envision the use of full authority EECs and lacks the specific regulatory requirements necessary to provide an adequate level of safety. Therefore, special conditions are necessary.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Tecnam must show that the Model

P2012 airplane meets the applicable provisions of part 23, as amended by amendment 23–1 through 23–62 thereto.

If the Administrator finds that the applicable airworthiness regulations in part 23 do not contain adequate or appropriate safety standards for the Model P2012 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model P2012 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2).

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 FAA would apply these special conditions to the other model.

Novel or Unusual Design Features

The Model P2012 airplane will incorporate the following novel or unusual design features: The installation of an Electronic Engine Control (EEC) system. The EEC system is the generic family of electrical/electronic engine control systems, including full authority digital engine controls, supervisory controls, and derivatives of these.

Discussion

This airplane makes use of an electronic engine control system in addition to a traditional mechanical control system, which is a novel design for this type of airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. Mandating a structured assessment to determine potential installation issues mitigate the concerns that the addition of an electronic engine control does not produce a failure condition not previously considered.

Applicability

These special conditions are applicable to the Model P2012 airplane. Should Tecnam 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 FAA would apply these special conditions to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on the Model P2012 airplane. It is not a rule of general applicability.

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(f), 106(g), 40113, 44701–44702; Pub. L. 113–53, 127 Stat 584 (49 U.S.C. 44704) note.

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 Tecnam Model P2012 airplane.

1. Installation of Electronic Engine Control System

a. For electronic engine control (EEC) system installations, it must be established that no single failure or malfunction or probable combinations of failures of EEC system components will have an effect on the system, as installed in the airplane, that causes the Loss of Power Control (LOPC) probability of the system to exceed those allowed in part 33 certification.

b. Electronic engine control system installations must be evaluated for environmental and atmospheric conditions, including lightning and High Intensity Radiated Fields (HIRF). The EEC system lightning and HIRF effects that result in LOPC should be considered catastrophic.

c. The components of the installation must be constructed, arranged, and installed to ensure their continued safe operation between normal inspections or overhauls.

d. Functions incorporated into any electronic engine control that make it part of any equipment, systems or installation whose functions are beyond that of basic engine control, and which may also introduce system failures and malfunctions, are not exempt from § 23.1309 and must be shown to meet part 23 levels of safety as derived from § 23.1309. Part 33 certification data, if applicable, may be used to show compliance with any part 23 requirements. If part 33 data is used to substantiate compliance with part 23 requirements, then the part 23 applicant must be able to provide this data for its showing of compliance.

Note: The term ''probable'' in the context of ''probable combination of failures'' does not have the same meaning as used for a safety assessment process. The term ''probable'' in ''probable combination of failures'' means ''foreseeable,'' or those failure conditions anticipated to occur one or more times during the operational life of each airplane.

Issued in Kansas City, Missouri, on April 22, 2019.

William Schinstock,

Acting Manager, Small Airplane Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2019–08476 Filed 4–25–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2019–0301; Special Conditions No. 23–293–SC]

Special Conditions: Costruzioni Aeronautiche Tecnam S.P.A.; Model P2012 Airplane; Installation of Rechargeable Lithium Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Costruzioni Aeronautiche Tecnam S.P.A., Model P2012 airplane. These airplanes will have a novel or unusual design feature associated with the installation of a rechargeable lithium battery. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards 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 April 26, 2019.

We must receive your comments by May 28, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0301 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West