

§ 126.805 What are the procedures for appeals of HUBZone status determinations?

(a) *Who may appeal.* The protested HUBZone SBC, the protestor, or the contracting officer may file appeals of protest determinations with SBA's ADA/GC&8(a)BD.

(b) *Timeliness of appeal.* SBA's ADA/GC&8(a)BD must receive the appeal no later than 5 business days after the date of receipt of the protest determination. SBA will dismiss any appeal received after the five-day period.

(c) *Method of Submission.* The party appealing the decision may deliver its appeal in person, by facsimile, by express delivery service, or by U.S. mail (postmarked within the applicable time period).

(d) *Notice of appeal.* The party bringing an appeal must provide notice of the appeal to the contracting activity contracting officer and either the protested HUBZone SBC or original protestor, as appropriate.

(e) *Grounds for appeal.* (1) SBA will re-examine a protest determination only if there was a clear and significant error in the processing of the protest or if the AA/HUB failed completely to consider a significant fact contained within the information supplied by the protestor or the protested HUBZone SBC.

(2) SBA will not consider additional information or changed circumstances that were not disclosed at the time of the AA/HUB's decision or that are based on disagreement with the findings and conclusions contained in the determination.

(f) *Contents of appeal.* The appeal must be in writing. The appeal must identify the protest determination being appealed and set forth a full and specific statement as to why the decision is erroneous or what significant fact the AA/HUB failed to consider.

(g) *Completion of appeal after award.* An appeal may proceed to completion even after award of the contract that prompted the protest, if so desired by the protested HUBZone SBC, or where SBA determines that a decision on appeal is meaningful.

(h) *Decision.* The ADA/GC&8(a)BD will make its decision within 5 business days of its receipt, if practicable, and will base its decision only on the information and documentation in the protest record as supplemented by the appeal. SBA will provide a copy of the decision to the contracting officer, the protestor, and the protested HUBZone SBC, consistent with law. The ADA/GC&8(a)BD's decision is the final agency decision.

Subpart I—Penalties

§ 126.900 What penalties may be imposed under this part?

(a) *Suspension or debarment.* The Agency debarring official may suspend or debar a person or concern pursuant to the procedures set forth in part 145 of this title. The contracting agency debarring official may debar or suspend a person or concern under the Federal Acquisition Regulation, 48 CFR Part 9, subpart 9.4.

(b) *Civil penalties.* Persons or concerns are subject to civil remedies under the False Claims Act, 31 U.S.C. 3729–3733, and under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801–3812, and any other applicable laws.

(c) *Criminal penalties.* Persons or concerns are subject to severe criminal penalties for knowingly misrepresenting the HUBZone status of a small business concern in connection with procurement programs pursuant to section 16(d) of the Small Business Act, 15 U.S.C. 645(d), as amended; 18 U.S.C. 1001; and 31 U.S.C. 3729–3733. Persons or concerns also are subject to criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing any actions of SBA pursuant to section 16(a) of the Small Business Act, 15 U.S.C. 645(a), as amended, including failure to correct "continuing representations" that are no longer true.

Dated: June 5, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–15581 Filed 6–10–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–55–AD; Amendment 39–10590; AD 98–13–02]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 35, A35, B35, and 35R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Raytheon Aircraft Company (Raytheon) Models 35, A35, B35, and 35R airplanes (commonly referred to as

Beech Models 35, A35, B35, and 35R airplanes). This AD requires fabricating a placard that restricts the never exceed speed (Vne) to no more than 144 miles per hour (MPH) or 125 knots (KTS) indicated airspeed (IAS), and installing this placard on the instrument panel within the pilot's clear view. This AD also requires marking a red line on the airspeed indicator glass at 144 MPH (125 KTS), marking a white slippage mark on the outside surface of the airspeed indicator between the glass and case, and inserting a copy of this AD into the Limitations Section of the airplane flight manual (AFM). This AD is the result of several occurrences of in-flight vibration on the affected airplanes. The actions specified by this AD are intended to prevent in-flight vibrations caused by the affected airplanes operating at excessive speeds, which could result in airplane damage and possible loss of control of the airplane.

DATES: Effective July 7, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–55–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that relates to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–55–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Litke, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4127; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has recently received reports of several incidents of in-flight vibrations on Raytheon Models 35, A35, B35, and 35R airplanes (commonly referred to as Beech Models 35, A35, B35, and 35R airplanes).

These incidents are unrelated to AD 94–20–04, Amendment 39–9032 (59 FR 49785, September 30, 1994), which currently requires, among other things, balancing the ruddervators (off the airplane) anytime the ruddervator is repaired or repainted on Raytheon 35 series airplanes. Of the 10 incidents since AD 94–20–04 became effective, 7

of the affected airplanes had ruddervators that were balanced and 3 of the affected airplanes had ruddervators that were out-of-balance.

Post-flight inspections of the airplanes involved in the above-referenced incidents have revealed cracked bulkheads and wrinkled skin in the aft fuselage; and broken spars, broken hinges, and bent skin on the stabilizers and ruddervators.

The Raytheon Models 35, A35, B35, and 35R airplanes are equipped with "V-tails" that have a narrow chord stabilizer without reinforcing cuffs. The FAA's preliminary investigation reveals the possibility of an unstable flutter mode in the 160 to 170 MPH range for the Raytheon Models 35, A35, B35, and 35R airplanes. This unstable mode is not likely to occur on other Raytheon airplane models with "V-tail" configurations.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent in-flight vibrations caused by the affected airplanes operating at excessive speeds, which could result in airplane damage and possible loss of control of the airplane.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models 35, A35, B35, and 35R airplanes of the same type design, the FAA is issuing an AD. This AD requires:

- Fabricating a placard that restricts the never exceed speed (Vne) to no more than 144 miles MPH or 125 KTS IAS, and installing this placard on the instrument panel within the pilot's clear view;
- Marking a red line on the airspeed indicator glass at 144 MPH (125 KTS);
- Marking a white slippage mark on the outside surface of the airspeed indicator between the glass and case; and
- Inserting a copy of this AD into the Limitations Section of the AFM.

Possible Follow-Up AD Action

Raytheon is also reviewing the information related to the occurrences referenced in this AD and may develop a modification that, when incorporated, would eliminate the need for the speed restrictions required by this AD. The FAA will review any modification that is developed, determine whether it would eliminate the need for the requirements of this action, and then

determine whether additional AD action is necessary.

Determination of the Effective Date of the AD

Since a situation exists (possible loss of control of the airplane due to in-flight vibrations) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98-CE-55-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein 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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

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 (AD) to read as follows:

98-13-02 Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Amendment 39-10590; Docket No. 98-CE-55-AD.

Applicability: Models 35, A35, B35, and 35R airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent in-flight vibrations caused by the affected airplanes operating at excessive speeds, which could result in airplane damage and possible loss of control of the airplane, accomplish the following:

(a) Fabricate a placard that restricts the never exceed speed (Vne) to no more than 144 miles per hour (MPH) or 125 knots (KTS) indicated airspeed (IAS), and install this placard on the instrument panel within the pilot's clear view. The placard should utilize letters of at least 0.10-inch in height and contain the following words:

"Never exceed speed, Vne, 144 MPH (125 KTS) IAS"

(b) Mark a red line on the airspeed indicator glass at 144 MPH (125 KTS) and mark a white slippage mark on the outside surface of the airspeed indicator between the glass and case.

(c) Insert a copy of this AD into the Limitations Section of the airplane flight manual (AFM).

(d) Fabricating and installing the placard as required by paragraph (a) of this AD and inserting this AD into the Limitations Section of the AFM as required by paragraph (c) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(g) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(h) This amendment becomes effective on July 7, 1998.

Issued in Kansas City, Missouri, on June 2, 1998.

Ronald K. Rathgeber,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-15202 Filed 6-10-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 700

[Docket No. 970827205-8126-02]

RIN 0694-AA02

Defense Priorities and Allocations System

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is issuing this rule to amend the Defense Priorities and Allocations System (DPAS) regulation by updating, modifying and clarifying a number of its provisions.

In reviewing the current DPAS and in issuing this rule, the objective has been to improve DPAS administration and implementation and make it more effective and efficient in the post-Cold War era.

EFFECTIVE DATE: This rule is effective July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Richard V. Meyers, DPAS Program Manager, Office of Strategic Industries and Economic Security, Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3634, FAX: (202) 482-5650, and E-Mail: rmeyers@bxa.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 1997, the Department of Commerce published in the **Federal Register** (62 FR 51389) a request for comments on a proposed rule that would amend the Defense Priorities and Allocations System (DPAS) regulation by updating, modifying, and clarifying a number of its provisions.

Interested parties were requested to submit comments on the proposed rule by October 31, 1997. Interested parties were also requested to provide comments on any other provision of the DPAS that may be hindering effective and efficient administration or implementation. Of the seven comments received, only two were from private sector firms. Based on these comments and an editorial review of the proposed rule, several provisions of the proposed rule are further revised and clarified, and various editorial changes are made.

Analysis of Comments

No commenters objected to the proposed rule. Accordingly, the Department is proceeding with

publication of this final rule with the changes discussed below.

Public comments were particularly sought concerning the proposed revision of three provisions that directly affect industry operations under the DPAS. These provisions pertain to: (1) the time period within which a supplier must accept or reject a rated order [§ 700.13(d)(1)]; (2) the order of precedence to be given by contractors and suppliers to conflicting rated orders of equal priority status (§ 700.14); and (3) the combining by a contractor of defense rated requirements with commercial (unrated) requirements on one purchase order to a supplier [§ 700.17(d)].

Comments were also sought concerning (1) a proposal to remove the controlled materials provisions from §§ 700.30-700.31 and all other provisions, references, and supporting schedules to the program from throughout the regulation; and (2) proposals to make various other jurisdictional, technical, administrative, and miscellaneous revisions to a number of DPAS provisions. These revisions are needed to address changes to delegated authority, to update and clarify the text, and to improve generally the administration, effectiveness, and efficiency of the DPAS in support of our nation's post-Cold War defense requirements and its ability to respond fully to a national security emergency or domestic emergency preparedness situation.

1. Customer Notification of Acceptance or Rejection of Rated Orders

Industry has complained about the difficulty of complying with the customer notification requirements of § 700.13(d)(1). These rules required a supplier to accept or reject a rated order in writing within ten (10) working days after receipt of a DO rated order and within five (5) working days after receipt of a DX rated order. Accordingly, § 700.13(d)(1) is revised to extend the time within which a person must accept or reject a rated order by five (5) working days to fifteen (15) working days after receipt of a DO rated order, and ten (10) working days after receipt of a DX rated order. No commenter on the proposed rule objected to this change.

Also, because of the increasing use by industry of electronic data interchange to place contracts and purchase orders, § 700.13(d) is revised to reference specifically the electronic placement, acceptance, and rejection of rated orders. However, if the rated order is