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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–61–AD; Amendment 39–11061; AD 99–05–13]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; withdrawal.

SUMMARY: This amendment withdraws Airworthiness Directive (AD) 99–05–13, which currently applies to Raytheon Aircraft Company (Raytheon) Beech 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes. AD 99–05–13 requires installing a placard on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents. Since the issuance of AD 99–05–13, the Federal Aviation Administration (FAA) has re-evaluated all information related to this subject, and determined that the subject matter in this AD is an operational issue and does not address an unsafe condition. Accordingly, this action withdraws AD 99–05–13.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Pretz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4153; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA Taken Any Action to This Point?

Reports of engine stoppage on Raytheon Beech 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes caused FAA to issue AD 99–05–13, Amendment 39–11061 (64 FR 10560, March 5, 1999). AD 99–05–13 currently requires installing a placard on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents.

After issuing AD 99–05–13, we re-evaluated all information related to the subject matter of this AD and determined that:

- The positioning of the fuel selector is an operational issue and not an unsafe condition under part 39 of the Federal Aviation Regulations (14 CFR part 39) and should be handled by other methods;
- Normal operating and procedural information such as this should be handled through regular revisions to the Airplane Flight Manual (AFM) or Pilot's Operating Handbook (POH); and
- Issuing an AD to require a placard that conveys normal operating information reduces the pilots' sensitivity to true emergency information that should be conveyed by placards.

Consequently, FAA issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to withdraw AD 99–05–13. This proposal published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 30, 2000 (65 FR 16845).

Was the Public Invited to Comment?

The FAA invited interested persons to participate in the making of this amendment. The following describes each comment and presents FAA's response.

Comment Issue No. 1: AD is Valid if an Unsafe Condition Exists

What is the Commenter's Concern?

One commenter states that FAA is withdrawing this AD because it is an operational issue and should be handled by other methods. The commenter believes that the AD is valid because FAA has the authority to issue an AD on any issue as long as an unsafe condition exists.

What is FAA's Response to the Concern?

We concur that we have the authority and responsibility to act on an unsafe condition, regardless of the factors that create the unsafe condition. We were in error in including information in the NPRM specifying that an operational procedure cannot be the subject of an AD. However, we determined that the fuel selector valve, when functioning properly and used properly, does not create an unsafe condition. The FAA determined that the procedures to operate the fuel selector valve are readily available and that our authority is not to issue AD's against aircraft where the operators do not operate the equipment correctly. Utilizing positive detent to assure that the fuel valve is fully open to the tank selected is considered a standard design practice in the aircraft industry.

We are not changing the AD action as a result of this comment.

Comment Issue No. 2: AD is Needed for Airplanes Without an AFM/POH

What is the Commenter's Concern?

One commenter states that many airplanes currently affected by AD 99–05–13 are not required to have a POH, and Civil Aviation Regulations (CAR) part 3 allows a manufacturer to use placards instead of an AFM. The commenter believes that, for these reasons, the AD is valid.

What is FAA's Response to the Concern?

We concur that many aircraft do not require a POH and were certificated under CAR part 3 where the use of placards is acceptable over an AFM. However, airplanes in this situation usually only have placards installed that contain safety information when an unusual design, operating, or handling characteristic is prevalent.

The FAA has the authority to issue an AD to require operational placards. However, as discussed above, utilizing a positive detent to assure that the fuel valve is fully open to the tank selected is considered a standard design practice in the aircraft industry.

We are not changing the AD action as a result of this comment.

Comment Issue No. 3: Placards Are Necessary to Convey Safe Operation

What is the Commenter's Concern?

One commenter states that the AD is valid because placards are necessary to

convey safe operation for airplanes certificated under the Civil Aviation Regulations and part 23 of the Federal Aviation Regulations (14 CFR part 23). The commenter also states that placards should not be limited to only emergency information.

What is FAA's Response to the Concern?

We concur that placards are not just limited to emergency information. All required placards should convey information for safe operation. However, both CAR 3.777/3.777–1 and 14 CFR 23.1541 state that placards should convey safe operation information if the aircraft has unusual design, operation, or handling characteristics. As discussed previously, utilizing a positive detent to assure that the fuel valve is fully open to the tank selected is considered a standard design practice in the aircraft industry.

We are not changing the AD action as a result of this comment.

Comment Issue No. 4: FAA Has Changed the Definition of Unsafe Condition

What is the Commenter's Concern?

One commenter states that, by withdrawing AD 99–05–13, FAA will have changed the historical definition of an unsafe condition. We infer that the commenter wants to maintain the effectiveness of AD 99–05–13.

What is FAA's Response to the Concern?

We do not concur that we have altered the definition of an unsafe condition. Determination of an unsafe condition is based on each individual situation. Factors that are considered include the design, operation, or handling characteristics of the type design airplanes. As discussed above, utilizing a positive detent to assure that the fuel valve is fully open to the tank selected is considered a standard design practice in the aircraft industry.

We are not changing the AD action as a result of this comment.

Comment Issue No. 5: Numerous Occurrences Justify the Current AD

What is the Commenter's Concern?

One commenter states that placing a warning placard specifying the safe operation of the fuel selector as AD 99–05–13 requires supports the 49 occurrences from the records of the National Transportation Safety Board (NTSB). We infer that the commenter wants to maintain the effectiveness of AD 99–05–13.

What is FAA's Response to the Concern?

We do not concur with the commenter's assessment. We have reviewed 37 reports of the above-referenced 49 occurrences (commenter only provided 37). Approximately half of the occurrences listed the cause as fuel starvation in combination with the fuel selector not positioned in the detent. The most prevalent cause was failure to follow checklist procedures. In no instance was the pilot's lack of knowledge or understanding of the positioning of the fuel selector listed as the cause of the occurrence.

In addition, NTSB has not recommended that FAA issue an AD on this subject. Therefore, we conclude that the commenter believes NTSB supports the placard requirement, when in fact, NTSB has made no recommendation supporting it. Again, utilizing a positive detent to assure that the fuel valve is fully open to the tank selected is considered a standard design practice in the aircraft industry.

We are not changing the AD action as a result of this comment.

The FAA's Determination

What is FAA's Final Determination on This Issue?

Based on the above information, FAA has determined that there is no need for AD 99–05–13 and that it should be withdrawn.

This action withdraws AD 99–05–13. Withdrawal of AD 99–05–13 will not preclude us from issuing another notice in the future, nor will it commit us to any course of action in the future.

Regulatory Impact

Since this action only withdraws an AD, it is not an AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, FAA withdraws AD 99–05–13, Amendment 39–11061 (64 FR 10560, March 5, 1999).

Issued in Kansas City, Missouri, on July 5, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–17622 Filed 7–11–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–30]

Amendment to Class E Airspace; Albion, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Albion, NE.

DATES: The direct final rule published at 65 FR 26126 is effective on 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 5, 2000 (65 FR 26126). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 10, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 28, 2000.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 00–17610 Filed 7–11–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–18]

Amendment to Class E Airspace; Hugoton, KS

AGENCY: Federal Aviation Administration (FAA), DOT.