

State, local, or tribal authority should be authorized as an official quarantine use.

(b) The Administrator will issue a determination not later than 90 days after the receipt of a request submitted in accordance with § 304.3. A methyl bromide treatment or application will be determined by the Administrator to be an official quarantine use if the treatment or application conforms to the definition of that term in § 304.1, and if the Administrator finds that there is no other registered, effective, and economically feasible alternative available. If the Administrator determines that a methyl bromide treatment or application should not be authorized as an official quarantine use, the Administrator will provide to the requestor, in writing, the reasons for his or her determination.

(c) If a registered alternative to methyl bromide becomes available for a treatment or application that the Administrator has determined to be an official quarantine use, the Administrator will initiate a review to consider the effectiveness and economic feasibility of the alternative. The State, local, or tribal authority that requested and received the determination that the methyl bromide treatment or application under review was an official quarantine use will be invited to participate in the review. If the Administrator finds that the registered alternative is effective and economically feasible, the Administrator will rescind the determination that the methyl bromide treatment or application is an official quarantine use.

(d) If the Administrator determines that a methyl bromide treatment or application should not be authorized as an official quarantine use (see paragraph (b) of this section) or that a determination should be rescinded (see paragraph (c) of this section), the affected State, local, or tribal authority may request that the Administrator reconsider his or her determination. Requests for reconsideration may be submitted to the address provided in § 304.3(b). In its request for reconsideration, the State, local, or tribal authority must provide, in writing, the facts and reasons upon which it is relying to show that the treatment or application should be determined to be an official quarantine use or that a determination should remain in effect. The Administrator will take into account the information provided in the request for reconsideration and any other relevant facts, including the information provided in the original request for determination, and will render a decision as promptly as circumstances

permit. The Administrator's decision, and his or her reasons for that decision, will be communicated to the requestor in writing.

(e) Consistent with the Montreal Protocol and under the authority of the Clean Air Act, the Administrator of the Environmental Protection Agency (EPA) shall exempt quarantine applications of methyl bromide. APHIS will consult with EPA as appropriate in the course of evaluating requests to determine whether methyl bromide uses should be authorized as official quarantine uses and whether and when a previously authorized official quarantine use may be removed from the registry.

#### § 304.3 Submission of requests.

(a) A request for a determination under § 304.2 must be submitted and signed by the executive official or a plant protection official of the State, local, or tribal authority seeking the determination, and must include the following:

(1) A copy of the State, local, or tribal regulation or mandatory quarantine procedures under which the methyl bromide treatment or application is required;

(2) The name of the crop/use for which the methyl bromide treatment or application is required;

(3) The name(s) of the plant pests or noxious weeds targeted for control with methyl bromide; and

(4) The location(s) where the methyl bromide treatment or application is being carried out.

(b) All requests must be submitted to [address to be added in final rule].

#### § 304.4 Registry.

All State, local, and tribal requirements for methyl bromide applications or treatments that are determined by the Administrator to be official quarantine uses will appear on a registry of such treatments or applications that will be published and maintained by the Administrator. A copy of the registry may be obtained by writing to [address to be added in final rule]. The registry may also be viewed on the Internet at <http://www.aphis.usda.gov/ppq/bromide/>.

Done in Washington, DC, this 9th day of August 2004.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 04-18445 Filed 8-11-04; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NE-33-AD]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F Series Reciprocating Engines

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) for Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F series reciprocating engines. That AD currently requires venting of the lubrication system and inspection of the valve train on all engines. That AD also requires venting of the lubrication system of all engines on which the lubrication system has been opened, and any engine on which the propeller has been rotated one full turn in the wrong direction. This proposed AD would require similar actions, and also require removing the existing part number oil dipstick from service and installing a new oil dipstick. This proposed AD results from the need to clarify the mandated procedures for inspections and venting. This proposed AD also results from the manufacturer discovering that under certain circumstances, the oil level in the oil tank can fall below the minimum level required to sustain proper engine lubrication. We are proposing this AD to prevent damage to the engine valve train due to inadequate venting of the lubrication system, which can result in an in-flight engine failure and forced landing.

**DATES:** We must receive any comments on this proposed AD by October 12, 2004.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD:

- *By mail:* Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-NE-33-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

- *By fax:* (781) 238-7055.

- *By e-mail:* [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov).

You can get the service information identified in this proposed AD from Bombardier-Rotax GmbH, Gunskirchen,

Austria; telephone 7246-601-423; fax 7246-601-760.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:**

Richard Woldan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; telephone (781) 238-7136; fax (781) 238-7199.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. 2002-NE-33-AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You may get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

**Examining the AD Docket**

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

**Discussion**

On October 17, 2002, we issued AD 2002-21-16, Amendment 39-12923 (67 FR 65033, October 23, 2002). That AD requires:

- Before further flight, inspecting the engine valve train, venting the lubrication system, and inspecting for the correct venting of the oil system.
- Thereafter, before engine start, properly venting the lubrication system

after initial installation of a new or overhauled engine, after opening the oil system, after an engine oil change, and after the propeller was rotated one full turn in the wrong direction of rotation, allowing air to be ingested into the valve train components.

Austro Control, which is the airworthiness authority for Austria, notified us that an unsafe condition may exist on Bombardier-Rotax GmbH 912 F, 912 S, and 914 F series reciprocating engines. Austro Control advised that there have been seven in-flight engine failures that occurred within 50 hours time-in-service (TIS) after installation of a new or overhauled engine. Investigations by Austro Control indicate that the failures were due to inadequate venting of the lubrication systems. Inadequate venting of the lubrication system can cause damage to the engine valve train as a result of compression of trapped air while at maximum camshaft speed resulting in high impact stresses to valve train components.

**Actions After AD 2002-21-16 Was Issued**

After AD 2002-21-16 was issued, Austro Control advised that there have been 11 in-flight engine failures due to an oil tank level that is too low causing induction of air into the oil system and higher than anticipated pressures through the valve push rods. Investigations by Austro Control indicate that the failures were due to slower than anticipated return of oil from the engine crankcase back to the oil tank. Changes to the viscous properties of the oil cause a slower return of oil to the oil tank. This slow return results in the oil level in the oil tank falling below the minimum level required. An oil level that is too low causes induction of air into the oil system and higher than anticipated pressures through the valve push rods. That higher pressure causes damage to the components of the engine valve train. To help prevent this condition, Rotax introduced a new engine oil dipstick that has higher level indicator marks, which requires a greater quantity of oil in the oil tank. This increased quantity of oil helps prevent the induction of air into the oil system.

Also, after AD 2002-21-16 was issued, we found that some corrections and clarifications are required. In the **ADDRESSES** paragraph, this proposal corrects the address and telephone numbers for the Rotax service information. Also, this proposal revises the compliance section for clarification of the inspections and venting to more

closely match the related Austro Control AD.

**Relevant Service Information**

We have reviewed and approved the technical contents of Bombardier-Rotax GmbH Mandatory Service Bulletin (MSB) No. SB-912-036/SB-914-022, Revision 1, dated August 2002. This MSB provides procedures for inspecting engines for correct venting of the oil system and procedures for inspecting the valve train for damage caused by inadequate venting. Austro Control has classified this service bulletin as mandatory and issued AD No.113R1 in order to assure the airworthiness of these Bombardier-Rotax GmbH engines in Austria.

**Differences Between the Proposed AD and the Service Information**

Bombardier-Rotax GmbH MSB SB-912-036/SB-914-022 allows up to 5 hours TIS before venting and inspecting for correct venting of the oil system on engines with 50 hours or less TIS since the lubrication system has been opened and drained, since an oil change was performed using improper procedures, or since the propeller was rotated more than one turn in the wrong direction of rotation. We have determined that the venting and inspecting of the valve train must be done before the next engine start.

**Bilateral Agreement Information**

This engine model is manufactured in Austria and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. In keeping with this bilateral airworthiness agreement, Austro Control has kept us informed of the situation described above. We have examined the findings of Austro Control, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

**FAA's Determination and Requirements of the Proposed AD**

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would require:

- Before the next engine start for engines with 50 hours or less TIS on the effective date of the AD, since the engine had the oil system opened, or the oil was changed using other than

specified procedures, or the propeller was rotated more than one turn in the wrong direction of rotation, inspecting for valve train damage, properly venting the lubrication system and inspecting for the correct venting of the hydraulic valve tappets.

- Thereafter, for all engines, before engine start, properly venting the lubrication system after initial installation of a new or overhauled engine, after opening the oil system, after changing the oil using improper procedures, or after the propeller was rotated more than one turn in the wrong direction of rotation, allowing air to be ingested into the valve train components.

- At the next oil change, or within 100 hours TIS after the effective date of the AD, whichever is later, removing the oil dipstick, part number (P/N) 956150, from service, and installing a serviceable dipstick that has a different P/N.

The proposed AD would require that you do the venting of the lubrication system using the service information described previously.

#### Costs of Compliance

There are about 624 Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F series reciprocating engines of the affected design in the worldwide fleet. We estimate that 282 engines installed on aircraft of U.S. registry would be affected by this proposed AD. We also estimate that it would take about one work hour per engine to perform one oil system inspection and venting, and that the average labor rate is \$65 per work hour. Required parts would cost about \$0.85 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be \$18,570.

#### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under

**ADDRESSES.** Include "AD Docket No. 2002-NE-33-AD" in your request.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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. The Federal Aviation Administration (FAA) amends § 39.13 by removing Amendment 39-12923 (67 FR 65033, October 23, 2002) and by adding a new airworthiness directive, to read as follows:

**Bombardier-Rotax GmbH:** Docket No. 2002-NE-33-AD. Supersedes AD 2002-21-16, Amendment 39-12923.

#### Comments Due Date

(a) The FAA must receive comments on this airworthiness directive (AD) action by October 12, 2004.

#### Affected ADs

(b) This AD supersedes AD 2002-21-16, Amendment 39-12923.

#### Applicability

(c) This AD applies to Bombardier-Rotax GmbH 912 F, 912 S, and 914 F series reciprocating engines. These engines are installed on, but not limited to, Diamond Aircraft Industries, DA20-A1, Diamond Aircraft Industries GmbH Model HK 36 TTS, Model HK 36TTC, and Model HK 36 TTC-ECO, Iniziative Industriali Italiane S.p.A. Sky Arrow 650 TC and Sky Arrow 650 TCN, Aeromot-Industria Meccanico Metalurgica Ltda., Models AMT-300 and AMT-200S, and Stemme S10-VT aircraft.

#### Unsafe Condition

(d) This AD results from the manufacturer discovering that under certain circumstances, the oil level in the oil tank can fall below the minimum level required to sustain proper engine lubrication. The actions specified in this AD are intended to prevent damage to the engine valve train due to inadequate venting of the lubrication system, which can result in an in-flight engine failure and forced landing.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

#### Initial Venting and Inspection for Correct Venting

(f) Before the next engine start, for all Bombardier-Rotax GmbH 912 F, 912 S, and 914 F series reciprocating engines that have not been operated since doing any of the actions identified in Section 1.5 (a) of Rotax Mandatory Service Bulletin (MSB) SB-912-036/SB-914-022, Revision 1, dated August 2002, do the following:

- (1) Perform venting of the lubrication system; and
- (2) Perform inspection for correct venting of the hydraulic valve tappets. Use Section 3.1.1 through Section 3.1.4 of the Accomplishment Instructions of Rotax MSB SB-912-036/SB-914-022, Revision 1, dated August 2002 to do the venting and inspection.

#### Inspection of Engine Valve Train

(g) Before the next engine start, for all Bombardier-Rotax GmbH 912 F, 912 S, and 914 F series reciprocating engines that have been operated for 50 hours or less on the effective date of this AD since doing any of the actions identified in Section 1.5 (b) of Rotax Mandatory Service Bulletin (MSB) SB-912-036/SB-914-022, Revision 1, dated August 2002, do the following:

- (1) Disassemble and perform inspection of the engine valve train; and
- (2) Reassemble, vent the lubrication system, and inspect for correct venting of the hydraulic valve tappets. Use Section 3.1.5 through Section 3.1.7 of the Accomplishment Instructions of Rotax MSB SB-912-036/SB-914-022, Revision 1, dated August 2002.

#### Repetitive Venting of the Lubrication System

(h) Thereafter, for all Bombardier-Rotax GmbH 912 F, 912 S, and 914 F series reciprocating engines, after doing any of the actions in the following paragraphs (h)(1) through (h)(4), vent the lubrication system and inspect for correct venting of the hydraulic valve tappets before starting the engine. Use Section 3.1.1 through Section 3.1.4 of the Accomplishment Instructions of Rotax MSB SB-912-036/SB-914-022, Revision 1, dated August 2002 to do the venting and inspecting.

- (1) The installation of a new or overhauled engine.
- (2) The oil system has been opened allowing air to enter the valve train (e.g. oil pump, oil cooler, oil suction line removed which allows oil to drain from the engine oil galleries).
- (3) The engine oil was changed using procedures other than those included in Section 1.2 of Rotax MSB SB-912-036/SB-914-022 Revision 1, dated August 2002.
- (4) The propeller was turned more than one turn in the wrong direction of rotation.

#### Removal of Existing Oil Dipstick From Service

(i) At the next oil change or within 100 hours TIS after the effective date of this AD,

whichever is later, remove the oil dipstick, part number (P/N) 956150, from service, and install a dipstick that has a different P/N. Information on removing oil dipstick P/N 956150 from service can be found in Rotax Service Bulletin SB-912-040/SB-914-026, Revision 1, dated August 2003.

#### **Prohibition of Oil Dipstick, P/N 956150**

(j) After the effective date of this AD, do not use dipstick P/N 956150 after complying with paragraph (i) of this AD.

#### **Alternative Methods of Compliance**

(k) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

#### **Special Flight Permits**

(l) Special flight permits are not permitted.

#### **Material Incorporated by Reference**

(m) None.

#### **Related Information**

(n) Austro Control airworthiness directives No. 113R1, dated August 30, 2002, and No. 116, dated September 15, 2003, Rotax Service Bulletin SB-912-040/SB-914-026, Revision 1, dated August 2003, and Rotax Service Instruction SI-04-1997, Revision 3, dated September 2002 also address the subject of this AD.

Issued in Burlington, Massachusetts, on August 6, 2004.

Jay J. Pardee,

Manager, Engine and Propeller Directorate,  
Aircraft Certification Service.

[FR Doc. 04-18440 Filed 8-11-04; 8:45 am]

BILLING CODE 4910-13-P

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 1**

[REG-128767-04]

RIN 1545-BD48

#### **Treatment of Disregarded Entities Under Section 752**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The proposed regulations provide rules under section 752 for taking into account certain obligations of a business entity that is disregarded as separate from its owner under sections 856(i), 1361(b)(3), or §§ 301.7701-1 through 301.7701-3 (disregarded entity) for purposes of characterizing and allocating partnership liabilities. The rules affect partnerships with partnership debt and partners in those partnerships. These proposed regulations clarify the existing

regulations concerning when a partner may be treated as bearing the economic risk of loss for a partnership liability based upon an obligation of a disregarded entity.

**DATES:** Written or electronic comments and requests for a public hearing must be received by November 10, 2004.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-128767-04), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-128767-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at: <http://www.irs.gov/regs>, or via the Federal eRulemaking Portal at: <http://www.regulations.gov> (IRS-REG-128767-04).

#### **FOR FURTHER INFORMATION CONTACT:**

Concerning the regulations, Michael J. Goldman, (202) 622-3070; concerning submissions of the comments and the public hearing, Robin Jones, (202) 622-3521 (not toll-free numbers).

#### **SUPPLEMENTARY INFORMATION:**

##### **Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP; Washington, DC 20224. Comments on the collection of information should be received by October 12, 2004. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through

the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.752-2(k). This information is required to ensure proper allocations of partnership liabilities. This information will be used to determine the extent to which certain partners or related persons bear the economic risk of loss with respect to partnership liabilities. The collection of information is mandatory. The likely reporters are individuals and small businesses or organizations.

*Estimated total annual reporting burden:* 500 hours.

The estimated annual burden per respondent varies from 6 minutes to 2 hours, depending on individual circumstances, with an estimated average of 1 hour.

*Estimated number of respondents:* 500.

*Estimated frequency of responses:* On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### **Background**

Under section 752, a partner's basis in its partnership interest includes the partner's share of partnership liabilities. The Income Tax Regulations under section 752 provide rules relating to the determination of a partner's share of partnership liabilities. Those rules differ depending upon whether the liability is characterized as recourse or nonrecourse for purposes of section 752. Section 1.752-1(a) provides that a partnership liability is a recourse liability to the extent that any partner or related person bears the economic risk of loss for that liability under § 1.752-2. Section 1.752-1(a) also provides that a partnership liability is a nonrecourse liability to the extent that no partner or related person bears the economic risk of loss for that liability under § 1.752-2.

In general, a partner bears the economic risk of loss for a partnership