

of the INA, 8 U.S.C. 1103(a)(8), does not abrogate or abridge constitutional or civil rights protections;

(ix) A requirement that a complaint reporting and resolution procedure for allegations of misconduct or wrongdoing by State or local officers designated, or activities undertaken, pursuant to section 103(a)(8) of the INA, 8 U.S.C. 1103(a)(8), be in place;

(x) A requirement that a mechanism to record and monitor complaints regarding the immigration enforcement activities of State or local law enforcement officers authorized to enforce immigration laws be in place;

(xi) A listing by position (title and name when available) of the Service officers authorized to provide operational direction to State or local law enforcement officers assisting in a Federal response pursuant to section 103(a)(8) of the INA, 8 U.S.C. 1103(a)(8);

(xii) A requirement that a State or local law enforcement agency maintain records of operational expenditures incurred as a result of supporting the Federal response to a mass influx of aliens;

(xiii) Provisions concerning State or local law enforcement officer use of Federal property or facilities, if any;

(xiv) A requirement that any department, agency, or establishment whose State or local law enforcement officer is performing Service officer or employee functions shall cooperate fully in any Federal investigation related to allegations of misconduct or wrongdoing in conjunction with such functions, or to the written agreement; and

(xv) A procedure by which the appropriate law enforcement agency, department, or establishment will be notified that the Attorney General has made a determination under section 103(a)(8) of the INA, 8 U.S.C. 1103(a)(8), to authorize State or local law enforcement officers to exercise Federal immigration enforcement authority under the provisions of the respective agreements.

\* \* \* \* \*

7. In § 65.85, paragraph (e) is revised to read as follows:

**§ 65.85 Procedures for State or local governments applying for funding.**

\* \* \* \* \*

(e) The Attorney General will consider all applications from State or local governments until the Attorney General has obligated funding available for such purposes as determined by the Attorney General. The Attorney General will make a decision with respect to any application submitted under this section that contains the information described

in paragraph (c) of this section within 15 calendar days of such application.

\* \* \* \* \*

Dated: July 17, 2002.

**John Ashcroft,**

*Attorney General.*

[FR Doc. 02-18655 Filed 7-23-02; 8:45 am]

**BILLING CODE 4410-10-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

**[Docket No. NM225; Special Conditions No. 25-207-SC]**

#### **Special Conditions: Embraer Model EMB-135BJ; Interaction of Systems and Structures**

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Embraer Model EMB-135BJ airplane. The Embraer Model EMB-135BJ airplane will have a novel or unusual design feature involving a fuel transfer system whose failure can affect the structural performance of the airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this system and its effect on structural performance. 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 applicable airworthiness standards.

**DATES:** The effective date of these special conditions is July 12, 2002.

Comments must be received on or before August 23, 2002.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Aircraft Certification Service, Attention: Rules Docket (ANM-113), Docket No. NM225, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM225. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Todd Martin, FAA, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington

98055-4056; telephone (425) 227-1178; facsimile (425) 227-1320.

#### **SUPPLEMENTARY INFORMATION:**

The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected airplanes. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

#### **Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting 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 ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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 in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

#### **Background**

On May 22, 2002, Embraer applied for an amendment to Type Certificate No. T00011AT to include a corporate jet version of the Model EMB-135 airplane. The Model EMB-135BJ, which is a derivative of the EMB-135LR aircraft currently approved under Type Certificate No. T00011AT, is a pressurized, low-wing, "T" tail, transport category airplane with tricycle landing gear. It is powered by two Rolls-Royce model AE3007A1P engines, and will carry a maximum of 19 passengers. The primary differences between the existing EMB-135LR and the new EMB-

135BJ are the addition of winglets, increased maximum takeoff weight (to 21,990 kg), increased maximum operational ceiling (to 39,000 feet), additional exposed underbelly fuel tank installed ahead of the air conditioning area, extra internal fuel tanks installed in the back of the baggage compartment, and a modified fuel system due to the extra tanks. The new fuel system can serve to alleviate loads in the airframe and, when in a failure state, can create loads in the airframe. The current regulations do not adequately account for the effects of these systems and their failures on structural performance. These special conditions will require Embraer to substantiate the strength capability and freedom from aeroelastic instabilities after failures in the fuel transfer system.

#### **Type Certification Basis**

Under the provisions of § 21.101, Embraer must show that the Model EMB-135BJ meets the applicable provisions of the regulations incorporated by reference in Type Certificate T00011AT, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. T00011AT are 14 CFR part 25, effective February 1, 1965, including Amendments 25-1 through 25-84; Amendment 25-85; § 25.1517, as amended by Amendment 25-86; Amendment 25-88; Amendment 25-90; §§ 25.331, 25.335(b)(2), 25.345, 25.351, 25.363, 25.371, 25.415, 25.491, 25.499 and 25.561, as amended by Amendment 25-91; Amendment 25-93; § 25.807, as amended by Amendment 25-94; and Amendment 25-97. In addition, the certification basis includes certain special conditions, exemptions, and equivalent safety findings that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Model EMB-135BJ 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 EMB-135BJ 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.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(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, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

#### **Novel or Unusual Design Feature**

The Model EMB-135BJ will have systems that affect the structural performance of the airplane, either directly or as a result of a failure or malfunction. These novel or unusual design features are systems that can serve to alleviate loads in the airframe and, when in a failure state, can create loads in the airframe. The current regulations do not adequately account for the effects of these systems and their failures on structural performance. These special conditions provide the criteria to be used in assessing the effects of these systems on structures.

#### **Conclusion**

This action affects only certain novel or unusual design features on one model airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

#### **Immediate Adoption**

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect certification of the Embraer Model EMB-135BJ, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions 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 described above.

#### **List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

#### **The Special Conditions**

##### *Interaction of Systems and Structure*

##### **1. General**

For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of subparts C and D of part 25. The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, and fuel management systems. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

(a) The criteria defined herein only address the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may in some instances duplicate standards already established for this evaluation. These criteria are only applicable to structures whose failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements when operating in the system degraded or inoperative modes are not provided in these special conditions.

(b) Depending upon the specific characteristics of the airplane, additional studies that go beyond the criteria provided in these special conditions may be required in order to demonstrate the capability of the airplane to meet other realistic conditions, such as alternative gust or maneuver descriptions, for an airplane equipped with a load alleviation system.

(c) The following definitions are applicable to these special conditions.

**Structural performance:** Capability of the airplane to meet the structural requirements of part 25.

**Flight limitations:** Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the

flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

**Operational limitations:** Limitations, including flight limitations that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload, and Master Minimum Equipment List limitations).

**Probabilistic terms:** The probabilistic terms (probable, improbable, extremely improbable) used in these special conditions are the same as those used in § 25.1309.

**Failure condition:** The term failure condition is the same as that used in § 25.1309; however, these special conditions apply only to system failure conditions that affect the structural performance of the airplane (e.g., system failure conditions that induce loads, lower flutter margins, or change the response of the airplane to inputs such as gusts or pilot actions).

## 2. Effects of Systems on Structures

The following criteria will be used in determining the influence of a system

and its failure conditions on the airplane structure.

(a) *System fully operative.* With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in subpart C, taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system

presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

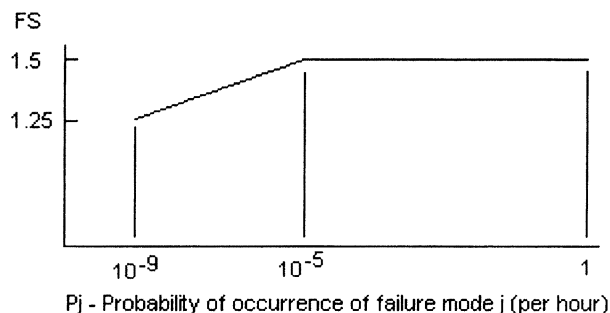
(b) *System in the failure condition.* For any system failure condition not shown to be extremely improbable, the following apply:

(1) *At the time of occurrence.* Starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static strength substantiation, these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure are ultimate loads to be considered for design. The factor of safety (FS) is defined in Figure 1.

Figure 1

Factor of safety at the time of occurrence



(ii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph (b)(1)(i) above.

(iii) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speed increases beyond  $V_c/M_c$ , freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iv) Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(2) *For the continuation of the flight.* For the airplane in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) The loads derived from the following conditions at speeds up to  $V_c$ , or the speed limitation prescribed for the remainder of the flight, must be determined:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

(B) The limit gust and turbulence conditions specified in §§ 25.341 and 25.345.

(C) The limit rolling conditions specified in § 25.349, and the limit

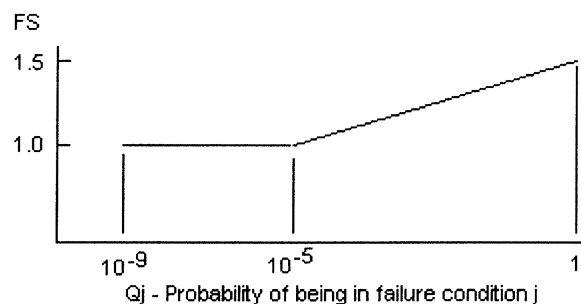
unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in § 25.351.

(E) The limit ground loading conditions specified in §§ 25.473 and 25.491.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads defined in paragraph (2)(i) above, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2  
Factor of safety for continuation of flight



$Q_j = (T_j)(P_j)$  where:

$T_j$  = Average time spent in failure condition  $j$  (in hours).

$P_j$  = Probability of occurrence of failure mode  $j$  (per hour).

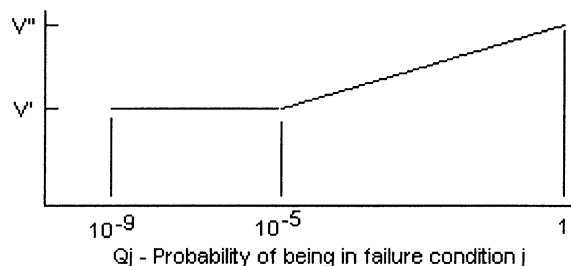
**Note:** If  $P_j$  is greater than  $10^{-3}$  per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in subpart C.

(iii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph (2)(ii) above.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds  $V^I$  and  $V^{II}$  may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3  
Clearance speed



$V^I$  = Clearance speed as defined by § 25.629(b)(2).

$V^{II}$  = Clearance speed as defined by § 25.629(b)(1).

$Q_j = (T_j)(P_j)$  where:

$T_j$  = Average time spent in failure condition  $j$  (in hours).

$P_j$  = Probability of occurrence of failure mode  $j$  (per hour).

**Note:** If  $P_j$  is greater than  $10^{-3}$  per flight hour, then the flutter clearance speed must not be less than  $V^{II}$ .

(vi) Freedom from aeroelastic instability must also be shown up to  $V^I$  in Figure 3 above for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(3) Consideration of certain failure conditions may be required by other sections of part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than  $10^{-9}$ ,

criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(c) *Warning considerations.* For system failure detection and warning, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25, or significantly reduce the reliability of the remaining system. The flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not

readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of subpart C below 1.25, or flutter margins below  $V^{II}$ , must be signaled to the crew during flight.

(d) *Dispatch with known failure conditions.* If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain

structural performance, then the provisions of these special conditions must be met for the dispatched condition and for subsequent failures. Flight limitations and expected operational limitations may be taken into account in establishing  $Q_j$  as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than  $10^{-3}$  per hour.

Issued in Renton, Washington, on July 12, 2002.

Ali Bahrami,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02-18617 Filed 7-23-02; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NE-01-AD; Amendment 39-12830; AD 2002-15-02]

RIN 2120-AA64

#### Airworthiness Directives; Hamilton Sundstrand Power Systems (Formerly Sundstrand Power Systems, Turbomach, and Solar) T-62T Series Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), that is applicable to Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems, Turbomach, and Solar) T-62T series auxiliary power units (APU's) with compressor wheel part number (P/N) 100636-1 installed. This amendment requires the replacement of compressor wheels P/N 100636-1. This amendment is prompted by a manufacturer's stress analysis that indicates stress levels high enough to initiate and drive crack growth in these compressor wheels. The actions specified by this AD are intended to mandate the replacement of the affected compressor wheels, which if not replaced, could result in uncontained compressor wheel failure and damage to the airplane.

**DATES:** Effective August 28, 2002.

**ADDRESSES:** The service information referenced in this AD may be obtained from Hamilton Sundstrand Power Systems, Technical Publications Department, P.O. Box 7002, Rockford, IL 61125-7002; telephone (815) 623-5983; fax (815) 966-8525. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Roger Pesuit, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712-4137; telephone (562) 627-5251, fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems, Turbomach, and Solar) T-62T series APU's with compressor wheel P/N 100636-1 was published in the **Federal Register** on March 28, 2002 (67 FR 14889). That action proposed to mandate the replacement of the affected compressor wheels, which if not replaced, could result in uncontained compressor wheel failure and damage to the airplane.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### Economic Analysis

There are approximately 492 Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems, Turbomach, and Solar) models T-62T-2C, T-62T-25, T-62T-29, and T-62T-39 APU's of the affected design in the worldwide fleet. The FAA estimates that 337 APU's installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 40 work hours per APU to perform the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$16,799 per engine. Based on these figures, the total cost of the AD to U.S. operators is estimated to be \$ 6,470,063.

#### Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### 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 to read as follows:

**2002-15-02 Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems, Turbomach, and Solar):** Amendment 39-12830. Docket No. 2002-NE-01-AD.

#### Applicability

This airworthiness directive (AD) is applicable to Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems, Turbomach, and Solar) models T-62T-2C, T-62T-25, T-62T-29, and T-62T-39 auxiliary power units (APU's) that have compressor wheel part number (P/N) 100636-1 installed. These APU's are installed on, but not limited to, Fairchild