

(f)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (f)(2) and (f)(3) of this AD.

(2) For RB211-Trent 800 series engines:

(i) If you borescope inspected your RB211-Trent 800 series engine using RB211 Trent 800 Series Propulsion System NMASB No. RB.211-72-AG264, Revision 3, dated December 21, 2010, or Revision 4, dated February 25, 2011, before the effective date of this AD, you have satisfied the requirements of paragraph (g)(1) of this AD.

(ii) If you performed the ECI and in-shop visual inspection of your RB211-Trent 800 series engine using RB211 Trent 700 and Trent 800 Series Propulsion Systems NMASB No. RB.211-72-AG085, Revision 1, dated September 27, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph (g)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (g)(2) and (g)(3) of this AD.

(3) For RB211-Trent 500 and 900 series engines:

(i) If you borescope inspected your RB211-Trent 500 series engine using RB211 Trent 500, 700 and 800 Series Propulsion Systems NMASB No. RB.211-72-AF260, Revision 4, dated July 28, 2009, or using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211-72-G448, Revision 2, dated December 23, 2010 before the effective date of this AD, you have satisfied the ECIs required by paragraph (h)(3) of this AD.

(ii) If you performed the ECI and in-shop visual inspection of your RB211-Trent 500 series engine using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211-72-G448, Revision 2, dated December 23, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph (h)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (h)(2) and (h)(3) of this AD.

(4) For RB211-Trent 900 series engines:

(i) If you borescope inspected your RB211-Trent 900 series engine using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211-72-G448, Revision 2, dated December 23, 2010, before the effective date of this AD, you have satisfied the requirements of paragraph (i)(1) of this AD.

(ii) If you performed the ECI and in-shop visual inspection of your RB211-Trent 900 series engine using RB211 Trent 500 and Trent 900 Series Propulsion Systems NMSB No. RB.211-72-G448, Revision 2, dated December 23, 2010, before the effective date of this AD, you have satisfied the ECI and visual inspections required by paragraph (i)(3) of this AD. You are still required to perform the repetitive inspections required by paragraphs (i)(2) and (i)(3) of this AD.

#### (l) Definitions

For the purpose of this AD, a shop visit is defined as introduction of an engine into the shop and disassembly sufficient to expose the IP compressor module rear face.

#### (m) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use

the procedures in 14 CFR 39.19 to make your request.

#### (n) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781-238-7779; fax: 781-238-7199; email: frederick.zink@faa.gov.

(2) Refer to European Aviation Safety Agency, AD 2013-0002, dated January 4, 2013, for more information. You may examine this AD on the Internet at <http://www.regulations.gov/#!documentDetail;D=FAA-2007-28059-0022>.

#### (o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on October 8, 2013.

(i) Rolls-Royce plc Non-Modification Alert Service Bulletin No. RB211 Trent 900 Series Propulsion Systems NMASB No. RB.211-72-AH059, dated December 11, 2012.

(ii) Rolls-Royce plc Non-Modification Alert Service Bulletin No. RB211 Trent 500 Series Propulsion Systems RB.211-72-AH058, dated December 13, 2012.

(4) The following service information was approved for IBR on June 29, 2012, (77 FR 31176, May 25, 2012).

(i) Rolls-Royce plc RB211 Trent 700 Series Propulsion System Non-Modification Alert Service Bulletin No. RB.211-72-AG270, Revision 4, dated March 21, 2011.

(ii) Rolls-Royce plc RB211 Trent 700 and 800 Series Propulsion Systems Non-Modification Alert Service Bulletin No. RB.211-72-AG085, Revision 2, dated July 7, 2011.

(iii) Rolls-Royce plc RB211 Trent 800 Series Propulsion System Non-Modification Alert Service Bulletin No. RB.211-72-AG264, Revision 5, dated March 21, 2011.

(iv) Rolls-Royce plc RB211 Trent 500 Series Propulsion System Non-Modification Alert Service Bulletin No. RB.211-72-AF260, Revision 5, dated July 7, 2011.

(v) Rolls-Royce plc RB211 Trent 500 and 900 Series Propulsion Systems Non-Modification Service Bulletin No. RB.211-72-G448, Revision 3, dated July 7, 2011.

(5) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011-44-1332-242424; fax: 011-44-1332-245418; Internet: [http://www.rolls-royce.com/contact/civil\\_team.jsp](http://www.rolls-royce.com/contact/civil_team.jsp).

(6) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7125.

(7) You may also view this service information that is IBR at the National

Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal-register/cfr/ibr\\_locations.html](http://www.archives.gov/federal-register/cfr/ibr_locations.html).

Issued in Burlington, Massachusetts, on July 22, 2013.

**Colleen M. D'Alessandro,**

*Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2013-21108 Filed 8-30-13; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2013-0143; Directorate Identifier 2013-NE-06-AD; Amendment 39-17561; AD 2013-16-23]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Rolls-Royce plc Turbofan Engines**

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211-524B-02; -524B2-19; -524B3-02; -524B4-02; -524C2-19; -524D4-19; -524D4-B-19; -524D4-39; -535C-37; -535E4-37; -535E4-B-37, and -535E4-B-75 turbofan engines, and all RB211-524G2-19; -524G3-19; -524H2-19; and -524H-36 turbofan engines. This AD requires a one-time inspection of the front combustion liner (FCL) metering panel to determine if it is made from N75 material and, if so, replacing it with an FCL made from C263 material. This AD was prompted by the discovery of a cracked and distorted FCL metering panel, which was made from N75 material. We are issuing this AD to prevent hot gases from burning through the engine casing, which could result in an under-cowl fire and damage to the airplane.

**DATES:** This AD becomes effective October 8, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 8, 2013.

**ADDRESSES:** The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

## Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the Mandatory Continuing Airworthiness Information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800-647-5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### FOR FURTHER INFORMATION CONTACT:

Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781-238-7754; fax: 781-238-7199; email: [robert.green@faa.gov](mailto:robert.green@faa.gov).

### SUPPLEMENTARY INFORMATION:

#### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on April 5, 2013 (78 FR 20505). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During investigation of a starting problem with an RB211-535E4-B-37 engine, the Fuel Spray Nozzles (FSNs) appeared misaligned and the engine was removed. Further investigation found that the FSNs were correctly positioned but that the Front Combustion Liner (FCL) metering panel (reference Engine Illustrated Parts Catalogue (EIPC) section 72-41-13, Figure/Item 02-324) was cracked and distorted. Laboratory investigation revealed that the FCL metering panel was made of N75 material rather than the specified C263 material.

Rolls-Royce (RR) issued SB RB.211-72-7221 in 1984, to address the issue of cracking of FCL metering panels manufactured in N75 material. SB RB.211-72-7221 replaces the FCL metering panel manufactured in N75 material with one manufactured in C263 material. The FCL metering panel in so-called Phase 2 combustors of the RB211-524G/H and RB211-535C/E4/E4-B series engines was specified in C263 material from engine type at entry into service.

Based on these findings, it was determined that installation of N75 material FCL metering panels on an engine where C263 was the intended material may result in metering panel cracking and distortion.

#### Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

## Request To Correct an Applicability Date

American Airlines (AAL) requested that we correct a date cited in paragraph (c)(4)(i) of the NPRM (78 FR 20505, April 5, 2013) used to determine the affected engines. The NPRM states that combustion liners supplied by RR after April 23, 2011 are not affected by this AD, whereas RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211-72-AG046, Revision 3, dated December 6, 2012, and RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, cite the correct date as April 23, 2007.

We agree. We changed the date. Paragraph (c)(4) of this AD now states that combustion liners supplied by RR after April 23, 2007, are not affected by this AD.

## Request To Allow Alternative Inspection Method During Engine Shop Visits

AAL and Texas Aero Engine Services, LLC (TAESL) requested that we allow using RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, as a means to comply with the FCL inspections. AAL indicated that the Alert NMSB defines an inspection equivalent to that in the AD, which therefore should allow using the NMSB at the shop level. In addition, TAESL requested that we allow using Revision 1, Revision 2, or later revisions of RR Alert NMSB No. RB.211-72-AF572 to comply with the AD.

We partially agree. We agree that RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, provide an acceptable inspection. We changed the AD to add RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, and Revision 1, dated October 10, 2008, to the compliance paragraph, by adding paragraphs (e)(2)(ii) and (e)(3)(ii).

New paragraph (e)(2)(ii) states: "You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012, for engine shop visit inspections."

New paragraph (e)(3)(ii) states: "You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated

December 6, 2012, for engine shop visit inspections."

We disagree with including possible future versions of the Alert NMSB because what future versions may contain is speculation. We did not change the AD.

## Request To Use Spectroscopic Analysis To Determine if the FCL Metering Panel Is Made From N75 Material

AAL requested that we allow an alternate procedure to obtain and analyze the FCL material. RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, requires the use of an alloy sorter to identify the FCL material as either C263 or N75. If the sorter identifies the material as N75, the Alert NMSB requires that a sample be provided to RR for confirmation by spectroscopic analysis. AAL proposed an alternate procedure be accepted to obtain and analyze a sample of material from the FCL in accordance with RB.211-72-AG046, paragraph 3.(B).5.(p)(i) for all inspections instead of using the alloy sorter as a preliminary step. The alternative procedure includes the use of a local laboratory for the spectroscopic analysis.

We agree. Paragraph 3.(B).5.(p)(i) identifies, among other things, how to obtain the sample. AAL's alternate process uses paragraph 3.(B).5.(p)(i) to obtain the sample. AAL's proposed follow-on analysis is simpler as it avoids use of the alloy sorter. However, spectroscopic analysis then becomes required. The analysis need not be limited to RR facilities, but can be conducted locally in the context of an FAA-accepted maintenance or quality plan.

We changed the AD by adding paragraphs (e)(2)(iii) and (e)(2)(iv), and also (e)(3)(iii) and (e)(3)(iv).

New paragraph (e)(2)(iii) states: "You may use paragraph 3.B.(5)(p)(i) of RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.B.(3) through 3.B.(5)(p) and paragraphs 3.C.(5)(q) and (r)."

New paragraph (e)(3)(iii) states: "You may use paragraph 3.C.(5)(p)(i) of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.C.(3) through 3.C.(5)(p), and paragraph 3.C.(5)(q)."

New paragraphs (e)(2)(iv) and (e)(3)(iv) state: "You may use a local facility in the context of an FAA-accepted maintenance or quality plan to perform the spectroscopic analysis."

### Request To Substitute Locally Sourced Tools To Conduct Pressure Test

AAL requested that we allow the use of a locally sourced pressure test adaptor and pressure gauge in place of tools specified by part number in RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012.

We agree. Locally sourced tooling approved under an FAA-accepted maintenance or quality plan is acceptable for use. We changed the AD by adding paragraph (e)(3)(v) which states: "The accomplishment instructions in paragraphs 3.B.(6)(g)(iii) and 3.B.(6)(j)(i) of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, specify use of RR tooling for the post-inspection fuel manifold pressure test. However, you may use locally sourced tooling in the context of an FAA-accepted maintenance or quality plan."

### Request To Be Less Precise in References to NMSB Revision Numbers

TAESL requested that we not specify use of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, for the inspection, and that we either remove the revision number or add the words "or later revision" because service bulletins can be revised frequently. Similarly, TAESL requested that in paragraph (c)(ii), Applicability, we change the reference to RR Alert NMSB No. RB.211-72-AF572 to say "Revision 1 or 2, or later revision."

We partially agree.

We agree that RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, and Revision 1, dated October 10, 2008, and Initial Issue, dated October 15, 2007 are acceptable inspections for prior compliance. We changed the AD by adding paragraph (f), Credit for Previous Actions.

New paragraph (f) states: "(1) You have satisfied the inspection requirement of paragraph (e) of this AD if, before the effective date of this AD, you performed the actions prescribed in this AD using: (i) RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012, or Revision 2, dated June 8, 2012, or Revision 1, dated November 16, 2010, or Initial Issue, dated December 17, 2009; or (ii) RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, or Revision 2, dated June 7, 2012, or Revision 1, dated January 17, 2011, or Initial Issue, dated December 17, 2009; or (iii) RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or Initial Issue, dated October 15, 2007; or (iv) RR Repeater Technical Variance

No. 75295, Issue 1, dated April 20, 2007."

We disagree with including possible future versions of the Alert NMSB because what future versions may contain is speculation. We did not change the AD.

### Request To Replace Flight Cycle Requirement With Compliance at Next Shop Visit

UPS requested that we remove from compliance the flight cycle requirement and instead require compliance at the next shop visit. UPS has completed inspection of 67 of 89 affected engines, with no findings. The remaining engines are locked in specific geographic areas that do not afford favorable opportunities to accomplish material verification. UPS believes the risk of finding a combustion liner metering panel fabricated of N75 material is low.

We disagree. The RR risk assessment that we reviewed estimates 25 field findings. There have been seven findings to date, leaving 18 potential additional findings. The cyclic compliance requirement, average fleet utilization, and alternative inspection methods provide adequate ability to manage remaining inspections in a timely manner during scheduled maintenance opportunities. We did not change the AD.

### Request To Lower the Estimated Costs of Compliance

AAL requested that we lower, based on the inspection results to date, our estimate of costs of compliance. The NPRM (78 FR 20505, April 5, 2013) estimates that 315 engines of U.S. registry are affected, and that 12 engines will test positive for N75. AAL believes that this estimate is too high.

AAL stated that, to date, 770 engines of the worldwide fleet have been inspected using RR NMSB No. RB.211-72-AF572 and RB.211-72-AG046. Two engines were confirmed to have an N75 material FCL metering panel in the shop using RB.211-72-AF572 and one was the original event engine. No engines with confirmed FCL metering panel with N75 material have been found in the worldwide fleet using RR NMSB No. RB.211-72-AG046.

We disagree. As of March 15, 2013, we are aware of seven findings—the known failure of one engine, two findings for new productions engines, and four findings for engines inspected in the field. We did not change the AD.

### Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the

public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

### Costs of Compliance

We estimate that this AD will affect about 315 RR RB211-524 and RB211-535 turbofan engines installed on airplanes of U.S. registry. We also estimate that it will take about 11 hours per engine to comply with this AD. The average labor rate is \$85 per hour. Required parts will cost about \$108,887 per engine. We anticipate that 12 FCL metering panels will fail inspection. Based on these figures, we estimate the cost of the AD on U.S. operators to be \$1,601,169.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 this AD:

- (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),
- (3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

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

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 FAA amends § 39.13 by adding the following new AD:

**2013-16-23 Rolls-Royce plc:** Amendment 39-17561; Docket No. FAA-2013-0143; Directorate Identifier 2013-NE-06-AD.

#### (a) Effective Date

This airworthiness directive (AD) becomes effective October 8, 2013.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to:

(1) All Rolls-Royce plc (RR) RB211-524G2-19; -524G3-19; -524H2-19; and -524H-36 turbofan engines;

(2) RR RB211-524B-02; -524B2-19; -524B3-02; -524B4-02; -524C2-19; -524D4-19; -524D4-B-19; and -524D4-39 turbofan engines that have incorporated RR Service Bulletin (SB) No. RB.211-72-7221, dated December 7, 1984;

(3) All RR RB211-535C-37; -535E4-37; -535E4-B-37, and -535E4-B-75 turbofan engines, except those engines that have incorporated RR SB No. RB.211-72-C230, Revision 1, dated November 22, 2012, or Initial Issue, dated November 16, 1999.

(4) This AD does not apply to engines listed in paragraphs (c)(1) through (c)(3) of this AD that have installed a front combustion liner (FCL) metering panel delivered from RR after April 23, 2007.

#### (d) Reason

This AD was prompted by the discovery of a cracked and distorted FCL metering panel, made from N75 material. We are issuing this AD to prevent hot gases from burning through the engine casing, which could result in an under-cowl fire and damage to the airplane.

#### (e) Actions and Compliance

Unless already done, do the following actions.

(1) At the next engine shop visit or within 625 flight cycles, whichever occurs first after the effective date of this AD, perform a one-time inspection of the FCL metering panel to determine if it is made from N75 material, and if made from N75 material, replace it with one made from C263 material.

(2) To inspect RR RB211-524 series turbofan engines:

(i) Use paragraph 3. of the Accomplishment Instructions of RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211-72-AG183, Revision 3, dated December 6, 2012; or

(ii) You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012, for engine shop visit inspections.

(iii) You may use paragraph 3.B.(5)(p)(i) of RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.B.(3) through 3.B.(5)(p), and paragraphs 3.C.(5)(q) and (r).

(iv) You may use a local facility in the context of an FAA-accepted maintenance or quality plan to perform the spectroscopic analysis.

(3) To inspect RR RB211-535 series turbofan engines:

(i) Use paragraph 3. of the Accomplishment Instructions of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012; or

(ii) You may use paragraph 3.B. of the Accomplishment Instructions in RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or paragraph 3. of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, for engine shop visit inspections.

(iii) You may use paragraph 3.C.(5)(p)(i) of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, and a spectroscopic analysis, instead of paragraphs 3.C.(3) through 3.C.(5)(p), and paragraph 3.C.(5)(q).

(iv) You may use a local facility to perform the spectroscopic analysis in the context of an FAA-accepted maintenance or quality plan.

(v) The accomplishment instructions in paragraphs 3.B.(6)(g)(iii) and 3.B.(6)(j)(i) of RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, specify use of RR tooling for the post-inspection fuel manifold pressure test. However, you may use locally sourced tooling in the context of an FAA-accepted maintenance or quality plan.

#### (f) Credit for Previous Actions

(1) You have satisfied the inspection requirement of paragraph (e) of this AD if, before the effective date of this AD, you performed the actions prescribed in this AD using:

(i) RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012, or

Revision 2, dated June 8, 2012, or Revision 1, dated November 16, 2010, or Initial Issue, dated December 17, 2009; or

(ii) RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012, or Revision 2, dated June 7, 2012, or Revision 1, dated January 17, 2011, or Initial Issue, dated December 17, 2009; or

(iii) RR Alert NMSB No. RB.211-72-AF572, Revision 2, dated April 2, 2009, or Revision 1, dated October 10, 2008, or Initial Issue, dated October 15, 2007; or

(iv) RR Repeater Technical Variance No. 75295, Issue 1, dated April 20, 2007.

#### (g) Definition

For the purpose of this AD, a shop visit is the induction of an engine into the shop for maintenance or overhaul. The separation of engine flanges solely for the purposes of transporting the engine without subsequent engine maintenance does not constitute an engine shop visit.

#### (h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

#### (i) Related Information

For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781-238-7754; fax: 781-238 7199; email: [robert.green@faa.gov](mailto:robert.green@faa.gov).

Refer to European Aviation Safety Agency AD 2012-0215R1, dated January 4, 2013, for more information. You may examine the AD on the Internet at <http://www.regulations.gov/#!documentDetail;D=FAA-2013-0143-0009>.

#### (j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Rolls-Royce plc (RR) Alert Non-Modification Service Bulletin (NMSB) No. RB.211-72-AF572, Revision 2, dated April 2, 2009.

(ii) RR Alert NMSB No. RB.211-72-AF572, Revision 1, dated October 10, 2008.

(iii) RR Alert NMSB No. RB.211-72-AG183, Revision 3, dated December 6, 2012.

(iv) RR Alert NMSB No. RB.211-72-AG046, Revision 3, dated December 6, 2012.

(3) For Rolls-Royce plc service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011-44-1332-242424; fax: 011-44-1332-249936; email: [http://www.rolls-royce.com/contact/civil\\_team.jsp](http://www.rolls-royce.com/contact/civil_team.jsp); Internet: <https://www.aeromanager.com>.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington,

MA. For information on the availability of this material at the FAA, call 781-238-7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Burlington, Massachusetts, on August 7, 2013.

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[FR Doc. 2013-21109 Filed 8-30-13; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[TD 9633]

RIN 1545-BE58

#### Limitations on Duplication of Net Built-in Losses

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations under section 362(e)(2) of the Internal Revenue Code of 1986 (Code). The regulations apply to certain nonrecognition transfers of loss property to corporations. The regulations affect all parties to the transaction.

**DATES:** *Effective Date:* These final regulations are effective on September 3, 2013.

*Applicability Date:* For dates of applicability see § 1.358-2(d), § 1.362-4(j).

**FOR FURTHER INFORMATION CONTACT:** Theresa A. Abell (202) 622-7700 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB control number 1545-2247. The collection of information in these final regulations is in § 1.362-4(d). This information is required by the IRS to verify basis of property transferred in certain tax-free transactions when taxpayers make the election provided for under section 362(e)(2)(C).

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid control number.

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 section 6103.

#### Background

Section 362(e)(2) was enacted in the American Jobs Creation Act of 2004 (Pub. L. 108-357, 188 Stat. 1418 (2004)) in order to prevent the duplication of loss in certain corporate nonrecognition transfers. Section 362(e)(2) applies to corporate acquisitions of property with a net built-in loss in transactions described in section 362(a) (transactions to which section 351 applies and acquisitions of property as paid-in surplus or contributions to capital), but only if the transaction is not described in section 362(e)(1) (transactions in which there is an importation of built-in loss). When a transaction is subject to section 362(e)(2), the acquiring corporation's basis in loss property is reduced by the property's allocable portion of the transferor's net built-in loss. See section 362(e)(2)(B). However, under section 362(e)(2)(C), the parties to the transaction can make an irrevocable election to apply the reduction to the transferor's basis in the stock received in the exchange instead of to the transferee's basis in the property received in the exchange.

Notice 2005-70, 2005-2 CB 694, was published on October 11, 2005, to provide interim guidance for making an election to apply section 362(e)(2)(C). See § 601.601(d)(2) of this chapter. Under Notice 2005-70, an election would be considered effective once a certification was included by the transferor or, if the transferor is a controlled foreign corporation (CFC), by all of its controlling U.S. shareholders as defined in § 1.964-1(c)(5), on a timely filed original Federal income tax return (designated a "U.S. return" under the final regulations) for the year of the transaction. Notice 2005-70 expressly permitted taxpayers to make a protective election that would have no effect on a transaction that is ultimately not subject to section 362(e)(2). The Notice also allowed other statements to be treated as effective elections if sufficient information was provided to the IRS with respect to the transfer and parties.

Proposed regulations under section 362(e)(2) were published in the **Federal Register** (71 FR 62067) on October 23,

2006. Following the publication of the proposed regulations, the IRS received questions concerning the application of section 362(e)(2) to transactions involving S corporations and partnerships and concerning the filing of the section 362(e)(2)(C) election, particularly with respect to transactions between persons outside the United States. The IRS also has become aware of certain ambiguities (described later in this preamble) relating to the proper operation of the statute. Two written comments were submitted; no public hearing was requested or held.

#### Summary of Proposed Regulations

##### 1. General Application of Section, Interaction With Other Law

The proposed regulations included a number of specific provisions regarding the general operation of the statutory framework, such as provisions stating that section 362(e)(2) is to be applied on a transferor-by-transferor basis; that a transaction is treated as subject to section 362(e)(2) to the extent it is not a transfer of net built-in loss property under section 362(e)(1); that gain recognized by the transferor is taken into account in determining the transferee's basis immediately after the transfer; and that section 362(e)(2) applies to any transaction described in section 362(a) without regard to whether the transaction is also described in section 362(b) or any other section. These provisions responded to inquiries from practitioners concerning section 362(e)(2) and its interaction with generally applicable provisions of the Code.

##### 2. Exceptions From the Application of Section 362(e)(2)

The proposed regulations included two exceptions under which a transaction would be treated as not subject to section 362(e)(2) notwithstanding that the transaction is generally described in that section.

Under the first exception, if a transfer is not relevant for Federal income tax purposes at the time it occurs and it does not become relevant for Federal income tax purposes at any time within two years of the transfer, then, solely for purposes of determining whether section 362(e)(2) applies to the transaction, the property exchanged would be deemed to have a basis equal to its fair market value (designated value under the final regulations) immediately after the transaction. As a result, the transfer would not be subject to section 362(e)(2). This exception reflected a concern that transferors not anticipating that a transfer would be relevant for