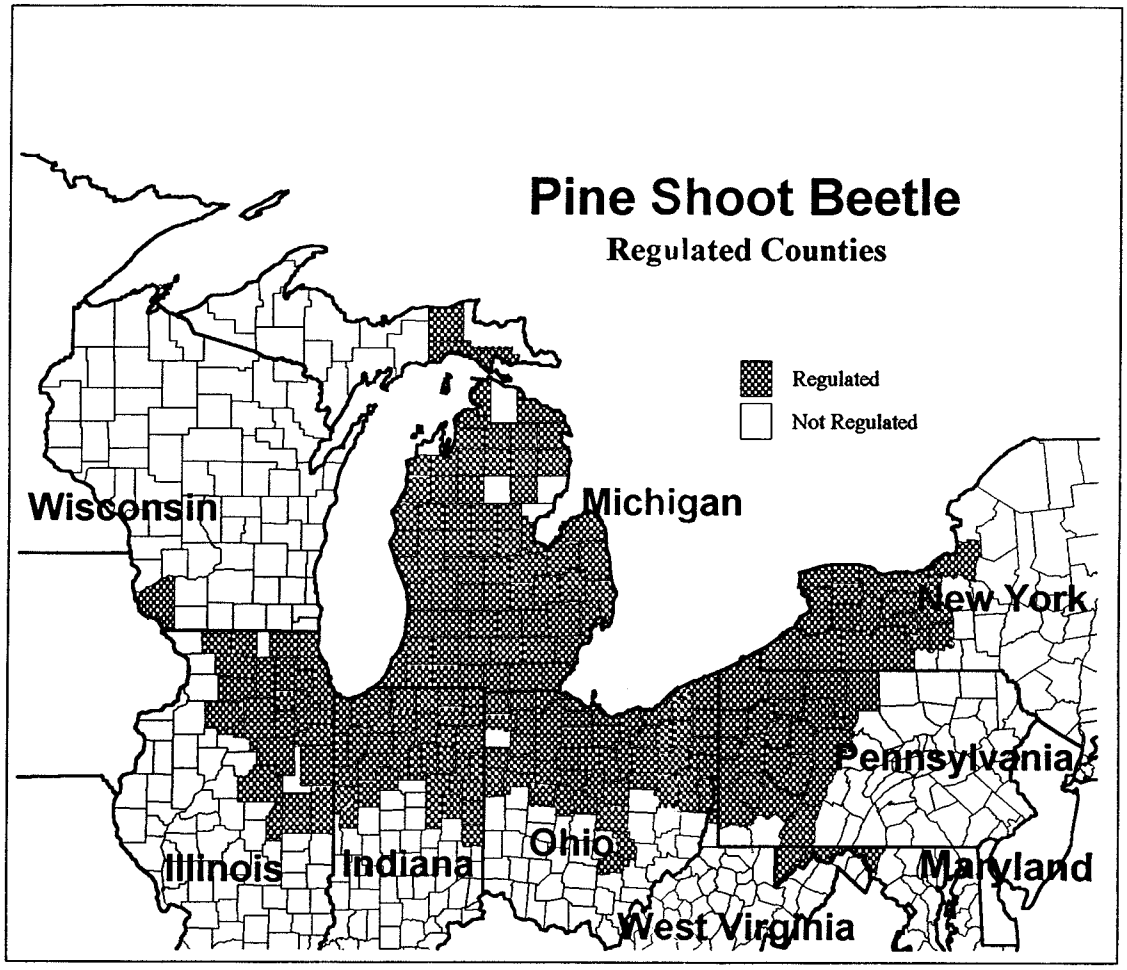

BILLING CODE 3410–34–C

Done in Washington, DC, this 3rd day of December 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–32194 Filed 12–8–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–37–AD; Amendment 39–10236; AD 97–25–12]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–44 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Bombardier Model CL–44 series airplanes, that requires revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This amendment is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by this AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

DATES: Effective January 13, 1998.

ADDRESSES: This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Peter LeVoci, Flight Test Pilot, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7514; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Bombardier Model CL–44 series airplanes was published in the **Federal Register** on May 28, 1997 (62 FR 28813). That action proposed to require revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to modify the limitation that prohibits the positioning of the power levers below the flight idle stop while the airplane is in flight, and to add a statement of the consequences of positioning the power levers below the flight idle stop while the airplane is in flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the comments received.

Request to Withdraw the Proposal

One commenter, the manufacturer, considers that a revision to the Limitations Section of the AFM, issued on December 6, 1996, fully meets the intent of the proposed rule. Therefore, the manufacturer concludes that an AD for the Model CL–44 series airplane is not required.

The FAA does not concur that inserting the AFM revision referenced by the commenter into the AFM provides an adequate method of compliance with the final rule. That revision does not contain reference to the fact that failure to observe the prohibition may cause loss of airplane control, and as such, does not completely meet the intent of the rule. The FAA acknowledges that revising the AFM to add the phrase ''loss of airplane control'' as a consequence of failure to observe the prohibition would provide adequate compliance with the requirements of the final rule. Therefore, the FAA will consider requests for approval of an alternative method of compliance in accordance with the provisions of paragraph (b) of this AD.

Request to Clarify That No Accidents Occurred on the CL–44

This same commenter notes that the text of the proposed rule does not make it clear that no accidents have occurred on Model CL–44 series airplanes as a result of ground propeller beta range being used improperly during flight. The commenter requests that the FAA clarify this in the final rule.

The FAA acknowledges that no accidents have occurred involving Model CL–44 series airplanes that have been attributed to ground propeller beta range being used improperly during flight. However, the FAA considers that the wording of the Summary section of the proposed rule that states, ''This proposal is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight,'' is correct. The fact that the FAA did not specifically name each manufacturer and airplane model on which those incidents or accidents occurred does not negate the fact that such incidents and accidents did occur on airplanes equipped with turboprop engines. The FAA finds that no change to the final rule is necessary.

Clarification of the Rule

Since the issuance of the NPRM, the FAA has noted that operations manuals for certain airplanes equipped with Dart turboprop engines may contain reference to ''ground fine pitch'' rather than ''operations below the flight idle stop,'' as specified in the proposed rule. Although the operations manuals refer to both of those phrases, the FAA finds that some clarification is necessary. Therefore, the FAA has added the phrase ''(i.e., ground fine pitch)'' in paragraph (a) of the final rule as a parenthetical definition of ''operations below the flight idle stop'' in the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 1 Bombardier Model CL–44 series airplane of U.S. registry will be affected by this AD, that it will take approximately 1 work hour to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on the single U.S. operator is estimated to be $60 for the one affected airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 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 from 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 the following new airworthiness directive:

97–25–12 Bombardier, Inc. (Formerly Canadair): Amendment 39–10236. Docket 97–NM–37–AD.

Applicability: All Model CL–44 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of power levers below the flight idle stop (i.e., ground fine pitch) while

the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

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

(d) This amendment becomes effective on January 13, 1998.

Issued in Renton, Washington, on December 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32112 Filed 12–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 295

[Docket No. 970822200–7272–02]

RIN 0693–AB44

Advanced Technology Program

AGENCY: National Institute of Standards and Technology, Technology Administration, Commerce.

ACTION: Final rule.

SUMMARY: The National Institute of Standards and Technology (NIST) is issuing a final rule which amends the implementing regulations for the Advanced Technology Program (ATP). Major changes include an increase in the cost-sharing requirement for large companies applying as single proposers in future competitions; modification of the ATP evaluation criteria for project selection to place greater emphasis on joint ventures and consortia with a broad range of participants; and a new rule for the valuation of transfers between separately-owned joint venture members which applies to transfers of goods, including computer software, and services provided by the transferor related to the maintenance of those goods, when those goods or services are transferred from one joint venture member to other separately-owned joint venture members.

EFFECTIVE DATE: This rule is effective December 9, 1997.

FOR FURTHER INFORMATION CONTACT:

To receive additional program information, contact Barbara Lambis at (301) 975–4447.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology is issuing a final rule which amends regulations found at part 295 of title 15 of the Code of Federal Regulations, which implements the Advanced Technology Program (ATP). In a statement to Congress in March of 1997, Secretary of Commerce William M. Daley announced a Departmental study of several issues raised by Members of Congress and others concerning the policies and procedures of the ATP. The study was designed to make recommendations for possible changes to improve the effectiveness of the program. Following issuance of a 30-day notice of opportunity for public comment on ways to improve the operation of the ATP, recommendations for possible changes were made to improve the effectiveness of the program.

In order to implement the recommendations and the decisions of Secretary Daley, the National Institute of Standards and Technology is today issuing changes to the operating procedures of the Advanced Technology Program found at part 295 of title 15 of the Code of Federal Regulations. These changes strengthen the fundamental mission of the ATP: for Government to work in partnership with industry to foster the development and broad dissemination of challenging, high-risk technologies that offer the potential for significant, broad-based economic benefits for the nation. Such a unique government-industry research partnership fosters the acceleration not only of dramatic gains in existing industries, but also acceleration of the development of emerging or enabling technologies leading to revolutionary new products, industrial processes and services for the world's markets and work to spawn industries of the 21st century. Furthermore, the changes also ensure that the fundamental strengths of the ATP remain unchanged, especially the requirement that the ATP continue to be a wholly merit-driven program based on peer review.

Description of the Changes

Changes to part 295 include revisions on the following topics (please see the analysis of comments below for additional details):

- Revised section 295.32(b) increases the cost-sharing requirement for large companies applying as single proposers in future competitions. ''Large businesses,'' as the term is defined in the revised Sec. 295.2(k), are required to cost-share at a minimum of 60 percent.
- The term ''large business'' is defined as including any business, including any parent company plus related subsidiaries, having annual revenues in excess of the amount published by ATP in the relevant annual notice of availability of funds. In establishing this amount, ATP may consider the dollar value of the total revenues of the 500th company in Fortune Magazine's Fortune 500 listing.
- The ATP evaluation criteria for project selection are modified to: (1) place greater emphasis on joint ventures and consortia with a broad range of participants; and (2) better define the multi-step selection process based on all of the criteria in Sec. 295.6.
- A new rule is established in Sec. 295.25 regarding the valuation of transfers between separately-owned joint venture members. The rule applies to transfers of goods, including computer software, and services provided by the transferor related to the maintenance of those goods, when those goods or services are transferred from one joint venture member to other separately-owned venture members.
- Also, a number of administrative and clerical changes are proposed to be implemented to part 295 for consistency and clarity.

Summary of Comments

On September 17, 1997, NIST published a notice of proposed rulemaking in the **Federal Register** (62 FR 48802). In response to this notice three letters were received; one from a not-for-profit research organization, one from a U.S.-owned for-profit company, and one from an individual. An analysis of the comments follows.

Section 295.2 Definitions—(1 Comment)

One commenter stated that the definition of ''matching funds'' under Section 295.2(1) eliminates reference to in-kind contribution of personnel and requested clarification on whether NIST considers personnel costs to be a cash contribution that would not be subject to the 30 percent limitation on in-kind.

NIST Response: Under the ATP program, personnel contributions are