

Administrator, the Federal Aviation Administration proposes to amend 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 removing amendment 39–12289 (66 FR 34088, June 27, 2001), and by adding a new airworthiness directive (AD), to read as follows:

**Airbus:** Docket 2002–NM–113–AD.  
Supersedes AD 2001–13–09,  
Amendment 39–12289.

**Applicability:** All Model A300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, and B4–203 series airplanes; Model A300 B4–600, B4–600R, and F4–600R (collectively called A300–600) series airplanes except those on which Airbus Modification 12278 has been accomplished in production; and Model A310 series airplanes except those on which Airbus Modification 12248 has been accomplished in production; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent the possibility of electrical arcing to the fuel tank if the airplane should be struck by lightning, which could create a potential ignition source within the fuel tank and an increased risk of a fuel tank explosion and fire, accomplish the following:

#### Restatement of Requirements of AD 2001–13–09

##### Inspection

(a) For Model A300 B2–1C, B2–203, B2K–3C, and A300 B4 series airplanes: Within 4,000 flight hours after August 1, 2001 (the effective date of AD 2001–13–09, amendment 39–12289), inspect the clearance space from each fuel quantity indication (FQI) probe to any adjacent structure or metallic component, in accordance with Airbus Service Bulletin A300–28–0080, dated September 28, 2000; or Revision 01, dated September 3, 2001.

#### New Requirements of This AD

##### Detailed Inspection

(b) For Model A300–600 and A310 series airplanes: Within 4,000 flight hours after the effective date of this AD; do a detailed inspection of the clearance space from each FQI probe to any adjacent structure or metallic component, in accordance with Airbus Service Bulletin A300–28–6065, dated March 29, 2001; Revision 01, dated August 31, 2001; or Revision 02, dated August 1, 2002; or Airbus Service Bulletin A310–28–2145, dated August 21, 2001; as applicable.

**Note 1:** For the purposes of this AD, a detailed inspection is defined as: “An intensive visual examination of a specific

structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.”

##### Clearance Adjustment

(c) If, during any inspection required by this AD, the clearance between any probe and its adjacent parts is less than 3.0 mm (0.118 in.), as described in Airbus Service Bulletin A300–28–0080, dated September 28, 2000; or Revision 01, dated September 3, 2001; or A300–28–6065, dated March 29, 2001; Revision 01, dated August 31, 2001; or Revision 02, dated August 1, 2002; or A310–28–2145, dated August 21, 2001: Before further flight, adjust the position of the FQI probe in accordance with paragraph 3.C. of the Accomplishment Instructions of the applicable service bulletin.

##### Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously per AD 2001–13–09, amendment 39–12289, are approved as alternative methods of compliance with paragraph (a) of this AD.

**Note 2:** The subject of this AD is addressed in French airworthiness directive 2002–170(B), dated April 3, 2002.

Issued in Renton, Washington, on September 26, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–24977 Filed 10–1–03; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002–NM–87–AD]

RIN 2120–AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that currently requires revising the airplane flight manual

(AFM), and either installing hydraulic tube assemblies incorporating a check valve, or visually inspecting the check valve if already installed and performing corrective actions if necessary. This action would add airplanes to the applicability of the existing AD. The actions specified by the proposed AD are intended to prevent the landing gear doors from becoming blocked from opening during application of emergency procedures in the event of a loss of hydraulics. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by November 3, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–87–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain “Docket No. 2002–NM–87–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be

considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

- For each issue, state what specific change to the proposed AD is being requested.

- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002-NM-87-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-87-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

On September 26, 2000, the FAA issued AD 2000-20-05, amendment 39-11916 (65 FR 59708, October 6, 2000), applicable to certain EMBRAER Model EMB-120 series airplanes. That AD requires revising the airplane flight manual (AFM), and either installing hydraulic tube assemblies incorporating a check valve, or visually inspecting the check valve if already installed and performing corrective actions if necessary. That action was prompted by a report indicating that, in the event of the loss of pressure in the green hydraulic system, if the present AFM "free-fall" operational procedure was not followed, there was a possibility that the landing gear doors may not open. The requirements of that AD are intended to prevent the landing gear doors from becoming blocked from opening during application of

emergency procedures in the event of a loss of hydraulics.

#### Actions Since Issuance of Previous AD

Since the issuance of that AD, the Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, advised the FAA that additional airplanes are subject to the same unsafe condition.

#### Explanation of Relevant Service Information

Since the issuance of AD 2000-20-05, Empresa Brasileira de Aeronautica S.A. (EMBRAER) has issued Service Bulletin 120-32-0077, Change 03, dated August 3, 2001, which describes the same inspection and installation procedures as those specified in Service Bulletin 120-32-0077, Change 02, dated December 23, 1997. Change 02 of the service bulletin was cited in AD 2000-20-05 as the appropriate source of service information. The relevant change in Change 03 of the service bulletin is that the effectivity listing has been changed to include new serial numbers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 97-05-03R3, effective date October 2, 2001, to ensure the continued airworthiness of these airplanes in Brazil. The Brazilian AD also mandates incorporation of an AFM revision of abnormal landing gear extension procedures.

#### FAA's Conclusions

This airplane model is manufactured in Brazil 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. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, 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.

#### Explanation of Requirements of Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 2000-20-05 to continue to require revising the airplane flight

manual (AFM), and either installing hydraulic tube assemblies incorporating a check valve, or visually inspecting the check valve if already installed and performing corrective actions if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously. This action would also add airplanes to the applicability of the existing AD.

#### Changes to the Applicability of the Existing AD

This proposed AD would expand the applicability from affected airplanes as listed in EMBRAER Service Bulletin 120-32-0077, Change 02, dated December 23, 1997, to include affected airplanes as listed in EMBRAER Service Bulletin 120-32-0077, Change 03, dated August 3, 2003.

#### Explanation of Change Made to Existing Requirements

The FAA has changed all references to a "visual inspection" in the existing AD to "general visual inspection" in this action. Also, the definition of a "general visual inspection" has been included in this action.

#### Cost Impact

There are approximately 219 airplanes of U.S. registry that would be affected by this proposed AD. This proposed AD adds no new requirements, but only adds airplanes to the applicability of the existing AD. This proposed AD adds no new economic burden on affected operators, but since issuance of AD 2000-20-05, the estimated labor rate has increased from \$60 to \$65 per work hour, and the estimated cost for required parts has increased from \$2,021 to \$2,129. The current costs associated with this proposed AD are otherwise reiterated in their entirety as follows for the convenience of affected operators:

The AFM revision that is currently required by AD 2000-20-05, and retained in this proposed AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be \$14,235, or \$65 per airplane.

The general visual inspection that is currently required by AD 2000-20-05, and retained in this proposed AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the currently required general visual inspection on

U.S. operators is estimated to be \$14,235, or \$65 per airplane.

The installation of hydraulic tube assemblies that include check valves that is currently required by AD 2000–20–05, and retained in this proposed AD, takes approximately 2 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Required parts cost approximately \$2,129 per airplane. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be \$494,921, or \$2,259 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action 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.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration proposes to amend 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 removing amendment 39–11916 (65 FR 59708, October 6, 2000), and by adding a new airworthiness directive (AD), to read as follows:

**Empresa Brasileira De Aeronautica S.A. (EMBRAER):** Docket 2002–NM–87–AD. Supersedes AD 2000–20–05, Amendment 39–11916.

**Applicability:** Model EMB–120 series airplanes as listed in EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent the landing gear doors from becoming blocked from opening during application of emergency procedures in the event of a loss of hydraulics, accomplish the following:

#### Restatement of Requirements of AD 2000–20–05

##### *Airplane Flight Manual (AFM) Revision*

(a) For airplanes subject to AD 2000–20–05: Within 10 flight hours after November 13, 2000 (the effective date of AD 2000–20–05, amendment 39–11916), revise the “Emergency Procedures” and “Abnormal Procedures” sections of the airplane flight manual (AFM) by inserting into the AFM a copy of EMB–120 AFM 120/794, Revision 45, dated October 14, 1996.

**Note 1:** Airplanes subject to AD 2000–20–05 are those listed in EMBRAER Service Bulletin 120–32–0077, Change 02, dated December 23, 1997.

##### *Inspection and Corrective Actions*

(b) For airplanes subject to AD 2000–20–05, on which the check valve has been installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997: Within 100 flight hours after November 13, 2000, conduct a general visual inspection to detect the check valve flow direction in accordance with EMBRAER Service Bulletin 120–32–0077, Change 02, dated December 23, 1997; or Change 03, dated August 3, 2001. If the check valve is installed incorrectly, prior to further flight, reinstall the check valve in the proper position in accordance with Change 02 or Change 03 of the service bulletin.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: “A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within

touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.”

(c) For airplanes subject to AD 2000–20–05, that are not equipped with the check valve installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997; or Change 01, dated September 25, 1997; or Change 02, dated December 23, 1997; or Change 03, dated August 3, 2003: Within 2,000 flight hours after November 13, 2000, install hydraulic tube assemblies incorporating a check valve in accordance with Service Bulletin 120–32–0077, Change 01, dated September 25, 1997; Change 02, dated December 23, 1997; or Change 03, dated August 3, 2001.

#### New Requirements of This AD

**Note 3:** Airplanes not subject to AD 2000–20–05 are those airplanes added by Change 03 of EMBRAER Service Bulletin 120–32–0077, dated August 3, 2001.

##### *Airplane Flight Manual (AFM) Revision*

(d) For airplanes not subject to AD 2000–20–05: Within 10 flight hours after the effective date of this AD, revise the “Emergency Procedures” and “Abnormal Procedures” sections of the airplane flight manual (AFM) by inserting into the AFM a copy of EMB–120 AFM 120/794, Revision 45, dated October 14, 1996.

##### *Inspection and Corrective Actions*

(e) For airplanes that are not subject to AD 2000–20–05, and on which the check valve has been installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997: Within 100 flight hours after the effective date of this AD, accomplish all of the applicable actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001.

(f) For airplanes not subject to AD 2000–20–05, on which the check valve has not been installed in accordance with EMBRAER Service Bulletin 120–32–0077, dated February 7, 1997; or Change 01, dated September 25, 1997; or Change 02, dated December 23, 1997: Within 2,000 flight hours after the effective date of this AD, accomplish all of the applicable actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 120–32–0077, Change 03, dated August 3, 2001.

(g) Accomplishment of the specified actions before the effective date of this AD per EMBRAER Service Bulletin 120–32–0077, Change 01, dated September 25, 1997; or Change 02, dated December 23, 1997; is considered acceptable for compliance with the applicable requirements of paragraphs (e) and (f) of this AD.

#### Alternative Methods of Compliance

(h) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116,

Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 4:** The subject of this AD is addressed in Brazilian airworthiness directive 97-05-03R3, dated October 2, 2001.

Issued in Renton, Washington, on September 26, 2003.

**Ali Bahrami,**

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

[FR Doc. 03-24978] Filed 10-1-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Part 191

RIN 1515-AD32

#### Merchandise Processing Fees Eligible To Be Claimed as Certain Types of Drawback Based on Substitution of Finished Petroleum Derivatives

**AGENCY:** Customs and Border Protection, Homeland Security; Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations to provide that merchandise processing fees are eligible to be claimed, in limited circumstances, as drawback based on substitution of finished petroleum derivatives. The proposed amendments are consistent with a court decision in which merchandise processing fees were found to be eligible to be claimed as unused merchandise drawback. As drawback based on substitution of finished petroleum derivatives is, in limited circumstances, treated in the same manner as unused merchandise drawback, the amendments to the Customs Regulations proposed in this document reflect that merchandise processing fees are also eligible to be claimed as drawback in these circumstances.

**DATES:** Comments must be received on or before December 1, 2003.

**ADDRESSES:** Written comments may be submitted to Bureau of Customs and Border Protection, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at Bureau of Customs and Border Protection, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to

inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** William G. Rosoff, Chief, Duty and Refund Determinations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, Tel. (202) 572-8807.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Merchandise Processing Fees*

Merchandise processing fees are fees charged and collected for the processing of merchandise that is formally entered or released into the United States. See 19 U.S.C. 58c(a)(9)(A). Merchandise processing fees are assessed as a percentage of the value of the imported merchandise, as determined under 19 U.S.C. 1401a.

##### *Merchandise Processing Fees Eligible To Be Claimed as Drawback*

Section 313 of the Tariff Act of 1930, as amended, (19 U.S.C. 1313), concerns drawback and refunds. Drawback is a refund of certain duties, taxes and fees paid by the importer of record and granted to a drawback claimant under specific conditions.

In *Texport Oil v. United States*, 185 F.3d 1291 (Fed. Cir. 1999), the Court of Appeals for the Federal Circuit (CAFC) held that merchandise processing fees were assessed under Federal law and imposed by reason of importation and therefore eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j).

Subsection (p) of 19 U.S.C. 1313 authorizes drawback that is based on "substitution of finished petroleum derivatives." Subsection (p)(4)(B) of 19 U.S.C. 1313, in pertinent part, limits the amount of drawback payable under this subsection to the amount of drawback that would be attributable to the article "if imported under [subsection 1313(p)(2)(A)(iii) or (iv)] *had the claim qualified for drawback under subsection (j)*." [emphasis added]

Subsection 1313(p)(2)(A)(iii) requires that the exporter of the exported article had imported the qualified article in a quantity equal to or greater than the quantity of the exported article. Subsection 1313(p)(2)(A)(iv) requires that the exporter of the exported article had purchased or had exchanged, directly or indirectly, an imported qualified article from an importer in a quantity equal to or greater than the quantity of the exported article.

The language "had the claim qualified for drawback under subsection (j)" reflects that drawback is payable under

1313(p)(2)(A)(iii) or (iv) pursuant to the same formula set forth in subsection 1313(j), *i.e.*, the amount of drawback payable under 19 U.S.C. 1313(j) is not to exceed 99 percent of any duty, tax, or fee imposed under Federal law because of the imported article's importation. It is noted that "drawback payable" pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv) includes merchandise processing fees.

It follows, therefore, that as the CAFC has determined that merchandise processing fees are eligible to be claimed as drawback pursuant to 19 U.S.C. 1313(j), such fees are also eligible to be claimed as drawback when drawback is based on substitution of finished petroleum derivatives pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv).

##### *Proposed Amendments to the Customs Regulations*

The *Texport Oil* decision is reflected in the Customs Regulations at §§ 191.3 and 191.51. See 67 FR 48547 (July 25, 2002), in which a final rule was published amending the Customs Regulations to reflect that merchandise processing fees are eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j).

In order to reflect that the court's holding is applicable, in limited circumstances, to drawback based on substitution of finished petroleum derivatives, this document proposes to further amend the Customs Regulations.

##### Explanation of Amendments

It is proposed to amend §§ 191.3(a)(4), 191.3(b)(2), 191.51(b)(2) and 191.171 of the Customs Regulations (19 CFR 191.3, 191.51 and 191.171) to provide that merchandise processing fees are eligible to be claimed as drawback when the basis for drawback is the substitution of finished petroleum derivatives pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv). A more detailed explanation of the proposed amendments is set forth below.

##### *Amendment to § 191.3 of the Customs Regulations*

Section 191.3(a)(4) of the Customs Regulations provides that merchandise processing fees for unused merchandise drawback pursuant to 19 U.S.C. 1313(j) are subject to drawback. As merchandise processing fees are eligible to be claimed as drawback for substitution of finished petroleum derivatives pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv), it is proposed to amend § 191.3(a)(4) accordingly.

Conversely, § 191.3(b)(2) of the Customs Regulations lists the types of duties and fees that are not subject to