

nonimmigrant students in determining the SEVIS access termination date. SEVP will not determine a SEVIS access termination date for that school until the appeals process has concluded and the initial denial or withdrawal has been upheld unless a school whose certification is withdrawn or whose recertification is denied is suspected of criminal activity or poses a potential national security threat. The school will no longer be able to access SEVIS, and SEVP will automatically terminate any remaining Active SEVIS records for that school on the SEVIS access termination date.

(3) *Legal obligations and ramifications for a school and its DSOs when a school is having SEVP certification denied or withdrawn.* Schools are obligated to their students to provide the programs of study to which they have committed themselves in the students' application for enrollment and acceptance process. Schools are obligated to the U.S. government to comply with the recordkeeping, retention, reporting and other requirements contained in 8 CFR 214.3. With any new petition for SEVP certification, SEVP will consider the extent to which a school has fulfilled these obligations to students and the U.S. government during any previous period of SEVP certification.

6. Section 214.13 is amended by revising paragraph (a), to read as follows:

§ 214.13 SEVIS fee for certain F, J, and M nonimmigrants.

(a) *Applicability.* The following aliens are required to submit a payment in the amount indicated for their status to the Student and Exchange Visitor Program (SEVP) in advance of obtaining nonimmigrant status as an F or M student or J exchange visitor, in addition to any other applicable fees, except as otherwise provided for in this section:

(1) An alien who applies for F-1 or F-3 status in order to enroll in a program of study at an SEVP-certified institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended, or in a program of study at any other SEVP-certified academic or language-training institution including private elementary and secondary schools and public secondary schools, the amount of \$200;

(2) An alien who applies for J-1 status in order to commence participation in an exchange visitor program designated by the Department of State (DOS), the amount of \$180, with a reduced fee for certain exchange visitor categories as

provided in paragraphs (b)(1) and (c) of this section; and

(3) An alien who applies for M-1 or M-3 status in order to enroll in a program of study at an SEVP-certified vocational educational institution, including a flight school, in the amount of \$200.

* * * * *

Michael Chertoff,

Secretary.

[FR Doc. E8-8261 Filed 4-18-08; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

RIN 0580-AA99

Weighing, Feed, and Swine Contractors

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We published a notice of proposed rulemaking in the **Federal Register** on February 11, 2008 (73 FR 7686), asking for comments on proposed amendments to four existing scales and weighing regulations issued under the Packers and Stockyards Act (P&S Act). The notice provided an opportunity for interested parties to submit written comments to Grain Inspection, Packers and Stockyards Administration (GIPSA) until April 11, 2008. In response to a request from the poultry industry, we are reopening and extending the comment period to provide interested parties with additional time in which to comment.

DATES: The comment period for the proposed rule published at 73 FR 7686, February 11, 2008, which originally closed on April 11, 2008, is reopened and extended through May 21, 2008. We will consider comments that we receive by May 21, 2008.

ADDRESSES: We invite you to submit comments on this notice of proposed rulemaking. You may submit comments by any of the following methods:

- E-Mail: Send comments via electronic mail to comments.gipsa@usda.gov.

- Mail: Send hardcopy written comments to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643-S, Washington, DC 20250-3604.

- Fax: Send comments by facsimile transmission to: (202) 690-2755.

- Hand Delivery or Courier: Deliver comments to: Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643-S, Washington, DC 20250-3604.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Instructions: All comments should make reference to the date and page number of the February 11, 2008, issue of the **Federal Register**. [73 FR 7686]
- Read Comments: All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: S. Brett Offutt, Director, Policy and Litigation Division, P&SP, GIPSA, 1400 Independence Avenue, SW., Washington, DC 20250-3646, (202) 720-7363, s.brett.offutt@usda.gov.

SUPPLEMENTARY INFORMATION: GIPSA published a notice of proposed rulemaking in the **Federal Register** on February 11, 2008 (73 FR 7686), seeking public comment on proposed amendments to 9 CFR part 201. The comment period of 60 days from the date of publication closed on April 11, 2008. GIPSA has received a request from the poultry industry to provide interested parties additional time to comment. In response, the comment period is reopened for an additional 30-day period. Any comments submitted after the close of the original comment period on April 11, 2008, but prior to the date of publication of this notice in the **Federal Register** will also be considered. All comments submitted between February 11, 2008 and May 21, 2008 will be considered.

Dated: April 14, 2008.

Alan Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E8-8554 Filed 4-18-08; 8:45 am]

BILLING CODE 3410-KD-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM391; Notice No. 25-08-05-SC]

Special Conditions: Embraer S.A., Model ERJ 190-100 ECJ Airplane; Flight-Accessible Class C Cargo Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Embraer S.A. Model ERJ 190–100 ECJ airplane. This airplane will have novel or unusual design features associated with access during flight of the main deck Class C cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before May 12, 2008.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM391, 1601 Lind Avenue, SW., Renton, Washington, 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM391. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 980557–3356; telephone 425–227–2194; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested persons to participate in this rulemaking by sending 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. You can inspect the docket 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 7:30 a.m. and 4 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 all comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, 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 back to you.

Background

Embraer made the original application for certification of the ERJ 190 on May 20, 1999. The Embraer application includes six different models, the initial variant being designated as the ERJ 190–100. The application was submitted concurrently with that for the ERJ 170–100, which received an FAA Type Certificate (TC) on February 20, 2004. Although the applications were submitted as two distinct type certificates, the airplanes share the same conceptual design and general configuration. On July 2, 2003, Embraer submitted a request for an extension of its original application for the ERJ 190 series, with a new application date of May 30, 2001, for establishing the type certification basis. The FAA certification basis was adjusted to reflect this new reference date. In addition, Embraer has elected to voluntarily comply with certain 14 CFR part 25 amendments introduced after the May 30, 2001, application date.

On May 30, 2001, Embraer S.A. applied for an amendment to Type Certificate No. A57NM to include the new Embraer Model ERJ 190–100 ECJ. The ERJ 190–100 ECJ is a derivative of the Embraer ERJ 190 which is approved under Type Certificate No. A57NM. The ERJ 190–100 ECJ is a low wing, transport-category aircraft powered by two wing-mounted General Electric CF34–10E6 turbofan engines. The airplane is a 19-passenger regional jet with a maximum take off weight of 54,500 kilograms (120,151 pounds). The maximum operating altitude and speed are 41,000 feet and 320 knots calibrated air speed (KCAS)/0.82 MACH, respectively. The ERJ 190–100 ECJ design includes an accessible main deck Class C cargo compartment.

The regulations consider that a “cargo compartment” is not intended for access during flight by the traveling public. The intent of the Class C cargo compartment was that it be a self-contained, isolated compartment intended to carry baggage and/or cargo.

It was not intended for access during flight. Access into a cargo compartment inherently carries with it an increased level of risk as baggage or cargo could shift, a decompression could occur in the compartment, or a fire could develop during the flight. The FAA considers that any of these threats are beyond passengers’ capabilities. In addition, there are security concerns with access to the checked baggage and/or cargo.

The FAA acknowledges that an allowance was made specifically for crew access into a Class B cargo compartment for the express purpose of fire fighting. Passengers’ access during flight into aft Class B cargo compartments has been permitted in the past for other small aircraft that are operated under part 91 and 135 operations. Passengers’ quick access to luggage has been allowed because of the limited duration for use and limited number of passengers possibly affected. These approvals were granted before the increased security concerns and the new regulations imposed by the Transportation Security Administration (TSA) to address the security concerns.

The FAA gave no consideration to a flight-accessible Class C cargo compartment when the classification was first developed, as no manufacturer had ever proposed to incorporate such a feature into their design. Inherently a “cargo compartment” was not intended for access, especially by the traveling public.

The FAA acknowledges that a previous Embraer airplane, the Embraer EMB 135BJ, has a flight-accessible Class C cargo compartment that was approved using an equivalent level of safety finding. The Embraer EMB 135BJ design is similar to the proposed design for the ERJ 190–100 ECJ. The EMB 135BJ approval was granted before the increased security concerns and the new regulations imposed by the TSA to address security concerns. We have determined that because the existing airworthiness standards do not contain adequate or appropriate safety standards, relative to cargo compartment accessibility by passengers during flight, special conditions are the appropriate method for this and all future accessible Class C cargo compartments.

Type Certification Basis

Under the provisions of § 21.101, Embraer S.A. must show that the Model ERJ 190–100 ECJ meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A57NM or the applicable regulations in effect on the date of

application for the change to the ERJ 190–100 ECJ. 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. A57NM are as follows:

Embraer has proposed to voluntarily adopt several 14 CFR part 25 amendments that became effective after the requested new application date of May 30, 2001, specifically Amendment 25–102, except paragraph 25.981(c); Amendments 25–103 through 25–105 in their entirety; Amendment 25–107, except paragraph 25.735(h); Amendment 25–108 through 25–110 in their entirety; and Amendments 25–112 through 25–114 in their entirety.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Embraer Model ERJ 190–100 ECJ 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 Embraer Model ERJ 190–100 ECJ 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.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.101.

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 or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Embraer Model ERJ 190–100 ECJ will incorporate the following novel or unusual design features: an unusual design relative to those which have been certificated under 14 CFR part 25, and passenger access during flight of a Class C cargo compartment.

Discussion

The FAA considers that Class C cargo compartment access during flight may impact the isolation of the passenger cabin from the cargo compartment,

which is needed to protect the passengers from any fire and smoke that may start within the cargo compartment, as required by § 25.857(c). In addition, in-flight access to the Class C compartment creates unique hazards resulting from passengers having access to cargo and baggage in the compartment. These hazards include safety for the persons entering the cargo compartment, possible hazards to the airplane as a result of this access, and the security concerns with access to the checked baggage and/or cargo. The proposed special conditions provide additional requirements necessary to ensure sufficient cabin isolation from fire and smoke in this unusual design configuration, and for passenger safety while occupying the Class C compartment during flight. In the future, the FAA position on this special condition may change due to increasing concern over airplane security.

The FAA has been in contact with the TSA to understand the security concerns with passengers having access in-flight to checked baggage and/or cargo. The TSA has provided the following information to clarify the regulations concerning access to cargo compartments by passengers.

Aircraft operators holding operating certificates under 14 CFR part 119 for scheduled passenger operations, public charter passenger operations, private charter passenger operations must have an aircraft operator security program. For U.S. flag carriers 49 CFR 1544 regulates the operator security program. Specifically, 49 CFR 1544.101(a)–(i) describes the type of program an aircraft operator must adopt depending on the type of aircraft operation. For the vast majority of operations in-flight access to checked baggage and/or cargo by passengers is NOT permitted by the aircraft operator security program. Aircraft operators should contact their Principal Security Inspector (PSI) concerning in-flight access to checked baggage and/or cargo by passengers.

Based on this understanding of the TSA regulations, the FAA’s position is that the basic approval for flight-accessible Class C cargo compartment should be limited to airplanes operated for private use, not-for-hire, not for common carriage.

For airplanes not operated for hire or offered for common carriage, flight-accessibility to check baggage and/or cargo is controlled by the operator of the airplane. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR parts 125 and 91, subpart F, as applicable. These airplane operators do not hold operating certificates under 14 CFR part 119.

For Class C cargo compartments, the means of controlling a fire is by flooding

the compartment with an extinguishing agent. These extinguishing agents are hazardous to humans. In the event of smoke detection, the flightcrew should ensure that the cargo compartment is not occupied before they discharge the extinguishing agent. To address this concern, a warning system is provided to the flight crew to alert them when a person is in the cargo compartment. However, the FAA’s position is that the fire threat is of paramount concern, and therefore prompt crew action to fight the fire must be taken to prevent a fire from threatening the safety of the airplane.

After the extinguishing agent has been discharged into the compartment, there must be a means of alerting person(s) not to enter the compartment. It must be located adjacent to the entry/exit door that provides access into the compartment. Access into the cargo compartment must be prevented after discharge of the extinguishing agent to prevent persons being exposed to the extinguishing agent and to keep the extinguishing agent in the compartment to control the fire.

Passengers in the cabin are alerted when oxygen is needed. A person in the cargo compartment would not be alerted when oxygen is needed. To address this concern, an aural and visual indication system within the cargo compartment is required to alert the person(s) that oxygen is required. An oxygen dispensing unit must be provided adjacent to the entry door into the cargo compartment to have oxygen readily available for the person leaving the compartment. The oxygen supply lines must not be routed into the cargo compartment because that would provide a source of oxygen to the cargo which would feed a fire.

If a net is used as the primary means of retention of the cargo, an untrained person accessing a cargo compartment may not be capable of securing the net correctly to maintain the retention of the cargo. The improperly restrained cargo could be a hazard in flight to the safe operation of the airplane and a hazard to the occupants under crash load conditions.

Applicability

As discussed above, these special conditions are applicable to the ERJ 190–100 ECJ. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Certification of the ERJ 190–100 ECJ is currently scheduled for June 2008. The substance of these special conditions

has been subject to the notice and public comment procedure in several prior instances. Therefore, because a delay would significantly affect the applicant's installation of the system and certification of the airplane, we are shortening the public comment period to 20 days.

Conclusion

This action affects only certain novel or unusual design features on Model ERJ 190-100 ECJ airplanes. It is not a rule of general applicability.

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

Therefore, under the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Embraer S.A. Model ERJ 190-100 ECJ.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Embraer S.A. Model ERJ 190-100 ECJ airplanes.

1. There must be a clear, visual message in the cockpit to advise the flightcrew when the main deck Class C cargo compartment is occupied.

2. There must be means provided to keep the cargo door open while the cargo compartment is occupied. There must be a placard located on or adjacent to the cargo door instructing occupants that the door must be closed and latched at all times except when someone is in the cargo compartment. This placard must also instruct the person entering the cargo compartment to keep the door open when they are in the cargo compartment and to immediately close and latch the door when they exit the cargo compartment.

3. There must be a (on/off) visual advisory/warning stating "Do Not Enter" (or similar words) to be located outside of and on or near the main entry door/hatch to the main deck cargo compartment. The advisory/warning is to be controlled from the flight deck.

4. There must be an aural and visual warning provided in the baggage compartment to alert an occupant when an oxygen mask must be donned immediately.

5. Oxygen dispensing units must be automatically presented and

immediately available to an occupant(s) of the baggage compartment. For these special conditions, immediately available means the oxygen dispensing units are located in the passenger cabin near the main entry door/hatch to the main deck cargo compartment (no oxygen supply lines are allowed to be routed into the compartment). The number of oxygen dispensing units must be equal to the number of occupants allowed in the cargo compartment. There must be a placard located on or adjacent to the cargo door instructing occupants of the maximum number of occupants allowed in the cargo compartment.

6. For cargo and baggage placed in the baggage compartment whose primary retention means is by net, the net must be constructed so that the means of opening and closing or securing the net is easily identified and operated.

7. These special conditions apply to main deck accessible Class C cargo compartments with volumes of 10 m³ or less. Class C cargo compartments that are accessible to passengers with a volume greater than 10 m³ may be approved, but would likely require additional limitations or provisions to mitigate the larger volume. Note that there may also be a maximum volume above which access is not acceptable.

8. The airplane is not operated for hire or offered for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR parts 125 and 91, subpart F, as applicable.

Issued in Renton, Washington, on April 11, 2008.

Philip L. Forde,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-8582 Filed 4-18-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM390; Notice No. 25-08-04-SC]

Special Conditions: Embraer S.A., Model ERJ 190-100 ECJ Airplane; Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Embraer S.A. Model ERJ 190-100 ECJ airplane which has a

novel and unusual design feature, in that it features multiple electrical/electronic equipment bays that are located throughout the airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Embraer S.A. Model ERJ 190-100 ECJ airplane.

DATES: Comments must be received on or before May 12, 2008.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM390, 1601 Lind Avenue, SW., Renton, Washington 98057-3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM390. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Stephen Happenny, FAA, Propulsion/Mechanical Branch, ANM-112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone 425-227-2147; facsimile 425-227-1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested persons to participate in this rulemaking by sending 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. You can inspect the docket 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 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for