

U.S. workers at the place of employment, and remain posted for at least 5 days beginning not later than the next business day after submitting a petition for H-2B worker(s); and

(2) The employer must place one newspaper advertisement using an online or print format on any day of the week meeting the advertising requirements of § 655.41, during the period of time the State Workforce Agency is actively circulating the job order for intrastate clearance; and

(3) The employer must hire any qualified U.S. worker who applies or is referred for the job opportunity until 2 business days after the last date on which the job order is posted under paragraph (c)(1) of this section. Consistent with § 655.40(a), applicants can be rejected only for lawful job-related reasons.

(d) This section expires on October 1, 2019.

(e) The requirement to file an attestation under paragraph (a) of this section is intended to be non-severable from the remainder of this section; in the event that paragraph (a) is enjoined or held to be invalid by any court of competent jurisdiction, the remainder of this section is also intended to be enjoined or held to be invalid in such jurisdiction, without prejudice to workers already present in the United States under this part, as consistent with law.

■ 5. Effective May 8, 2019 through September 30, 2022, add § 655.67 to read as follows:

**§ 655.67 Special document retention provisions for Fiscal Years 2019 through 2022 under the Consolidated Appropriations Act, 2019.**

(a) An employer who files a petition with USCIS to employ H-2B workers in fiscal year 2019 under authority of the temporary increase in the numerical limitation under section 105 of Division H, Public Law 116-6 must maintain for a period of 3 years from the date of certification, consistent with § 655.56 and 29 CFR 503.17, the following:

(1) A copy of the attestation filed pursuant to regulations governing that temporary increase;

(2) Evidence establishing that employer's business is likely to suffer irreparable harm (that is, permanent and severe financial loss), if it cannot employ H-2B nonimmigrant workers in fiscal year 2019; and

(3) Documentary evidence establishing that each of the workers the employer requested and/or instructed to apply for a visa, whether named or unnamed, had been issued an H-2B visa or otherwise granted H-2B status during

one of the last three (3) fiscal years (Fiscal Years 2016, 2017 or 2018), as attested to pursuant to 8 CFR 214.2(h)(6)(x).

(4) If applicable, evidence of additional recruitment and a recruitment report that meets the requirements set forth in § 655.48(a)(1), (2), and (7).

DOL or DHS may inspect these documents upon request.

(b) This section expires on October 1, 2022.

**Kevin K. McAleenan,**  
*Acting Secretary of Homeland Security.*

**R. Alexander Acosta,**  
*Secretary of Labor.*

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Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206-231-3158; email [joe.jacobsen@faa.gov](mailto:joe.jacobsen@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 9, 2016, Embraer applied for a change to Type Certificate No. TC00062IB to include additional flexibility to the normal load factor limit on the Embraer Model EMB-550 airplane, by requesting an amendment to the existing Embraer Model EMB-550 Special Conditions No. 25-520-SC as a result of harmonization efforts in the Flight Test Harmonization Working Group (FTHWG). The Embraer Model EMB-550 airplane, currently approved under Type Certificate No. TC00062IB, is a twin-engine, transport category airplane with a maximum takeoff weight of 42,857 pounds. The Embraer Model EMB-550 has a maximum seating capacity of 12 passengers.

**Type Certification Basis**

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Embraer must show that the Embraer Model EMB-550 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. TC00062IB or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Embraer Model EMB-550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Embraer Model EMB-550 airplane 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.

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

**[Docket No. FAA-2013-0772; Special Conditions No. 25-520A-SC]**

**Special Conditions: Embraer Model EMB-550 Airplanes; Flight Envelope Protection: Normal Load Factor (g) Limiting**

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

**ACTION:** Final special conditions.

**SUMMARY:** These amended special conditions are issued for Embraer Model EMB-550 airplanes. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is associated with an electronic flight control system that prevents the pilot from inadvertently or intentionally exceeding the positive or negative airplane limit load factor. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Effective May 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Joe Jacobsen, Airplane & Flight Crew Interface Section, AIR-671, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

### Novel or Unusual Design Features

The Embraer Model EMB-550 airplane will incorporate the following novel or unusual design features:

The Embraer Model EMB-550 airplane flight control system design incorporates normal load factor limiting on a full-time basis that will prevent the pilot from inadvertently or intentionally exceeding the positive or negative airplane limit load factor. This feature is considered novel and unusual in that the current regulations do not provide standards for maneuverability and controllability evaluations for such systems.

### Discussion

The normal load factor limit on the Embraer Model EMB-550 airplane is unique in that traditional airplanes with conventional flight control systems (mechanical linkages) are limited in the pitch axis only by the elevator surface area and deflection limit. The elevator control power is normally derived for adequate controllability and the maneuverability at the most critical longitudinal pitching moment. The result is that traditional airplanes have a significant portion of the flight envelope where maneuverability in excess of limit structural design values is possible. The Embraer Model EMB-550 airplane because of the normal load factor limit does not have this excess maneuverability.

Title 14, Code of Federal Regulations (14 CFR) part 25 does not specify requirements for demonstrating maneuver control that impose any handling qualities requirements beyond the design limit structural loads. Nevertheless, some pilots are accustomed to the availability of this excess maneuver capacity in case of extreme emergency such as upset recoveries or collision avoidance.

As a result of harmonization efforts with other civil aviation authorities through the Flight Test Harmonization Working Group (FTHWG) and Embraer's request to incorporate them into Special Conditions No. 25-520-SC, the FAA is including additional flexibility in maneuverability limits by amending the existing Embraer Model EMB-550 airplane Special Conditions No. 25-520-SC. This additional flexibility allows for reduced maneuverability limits beyond  $V_{mo}/M_{mo}$ . The existing special conditions are otherwise unchanged.

The 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.

### Discussion of Comments

The FAA issued Notice of Proposed Special Conditions No. 25-19-01-SC for the Embraer Model EMB-550 airplane, which was published in the **Federal Register** on April 8, 2019 (84 FR 13838). The FAA received a response from one commenter, while generally supporting the new technology requested a thorough review of the system reliability and failure modes. The comment is already addressed in § 25.1309, Equipment, systems, and installations.

### Applicability

As discussed above, these special conditions are applicable to the Embraer Model EMB-550 airplane. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However, as the certification date for the Embraer Model EMB-550 airplane is imminent, the FAA finds that good cause exists to make these special conditions effective upon publication.

### Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

### Authority Citation

The authority citation for these special conditions is as follows:

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

### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer Model EMB-550 airplanes.

1. To meet the intent of adequate maneuverability and controllability required by § 25.143(a), and in addition to the requirements of § 25.143(a) and in

the absence of other limiting factors, the following special conditions are based on § 25.333(b):

a. The positive limiting load factor must not be less than:

(1) 2.5g for the normal state of the electronic flight control system with the high lift devices retracted up to  $V_{mo}/M_{mo}$ . The positive limiting load factor may be gradually reduced down to 2.25g above  $V_{mo}/M_{mo}$ .

(2) 2.0g for the normal state of the electronic flight control system with the high lift devices extended.

b. The negative limiting load factor must be equal to or more negative than:

(1) Minus 1.0g for the normal state of the electronic flight control system with the high lift devices retracted.

(2) 0.0g for the normal state of the electronic flight control system with high lift devices extended.

c. Maximum reachable positive load factor wings level may be limited by the characteristics of the electronic flight control system or flight envelope protections (other than load factor protection) provided that:

(1) The required values are readily achievable in turns, and

(2) Wings level pitch up responsiveness is satisfactory.

d. Maximum achievable negative load factor may be limited by the characteristics of the electronic flight control system or flight envelope protections (other than load factor protection) provided that:

(1) Pitch down responsiveness is satisfactory, and

(2) From level flight, 0g is readily achievable or alternatively, a satisfactory trajectory change is readily achievable at operational speeds. For the FAA to consider a trajectory change as satisfactory, the applicant should propose and justify a pitch rate that provides sufficient maneuvering capability in the most critical scenarios.

e. Compliance demonstration with the above requirements may be performed without ice accretion on the airframe.

f. These special conditions do not impose an upper bound for the normal load factor limit, nor does it require that the limiter exist. If the limit is set at a value beyond the structural design limit maneuvering load factor "n" of §§ 25.333(b), 25.337(b) and 25.337(c), there should be a very obvious positive tactile feel built into the controller so that it serves as a deterrent to inadvertently exceeding the structural limit.

Issued in Des Moines, Washington, on May 2, 2019.

**Victor Wicklund,**

*Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-490]

#### Schedules of Controlled Substances: Placement of Furanyl Fentanyl, 4-Fluoroisobutryl Fentanyl, Acryl Fentanyl, Tetrahydrofuranyl Fentanyl, and Ocfentanil in Schedule I; Correction

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The Drug Enforcement Administration is correcting a final order that appeared in the **Federal Register** on November 29, 2018. The document issued an action maintaining the placement of furanyl fentanyl, 4-fluoroisobutryl fentanyl, acryl fentanyl, tetrahydrofuranyl fentanyl, and ocfentanil, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, in schedule I of the Controlled Substances Act. A drafting oversight in the amendatory instructions did not correctly update the prefatory language on isomers to reflect the change in the paragraph number for the designation of 3-methylthiofentanyl.

**DATES:** Effective Date: May 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Lynnette M. Wingert, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

**SUPPLEMENTARY INFORMATION:** On May 29, 1987, the Drug Enforcement Administration (DEA) placed six substances, including 3-methylthiofentanyl, into schedule I of the Controlled Substances Act. 52 FR 20070. At that time, the introductory text was revised to clearly indicate that optical and geometric isomers of 3-methylthiofentanyl were controlled. On January 8, 1988, paragraph (b)(34), the listing for 3-methylthiofentanyl, was redesignated to (b)(35), but the introductory text was not revised. 53 FR 500. On May 16, 2016, paragraph

(b)(35), the listing for 3-methylthiofentanyl, was redesignated to (b)(36), but the introductory text was not revised. 81 FR 22023. On June 7, 2017, paragraph (b)(36), the listing for 3-methylthiofentanyl, was redesignated to (b)(37), but the introductory text was not revised. 82 FR 26349. On April 20, 2018, paragraph (b)(37), the listing for 3-methylthiofentanyl, was redesignated to (b)(38), but the introductory text was not revised. 83 FR 17486. On November 29, 2018, paragraph (b)(38), the listing for 3-methylthiofentanyl, was redesignated to (b)(41), the present listing for 3-methylthiofentanyl, and a further error was introduced by modifying the reference to (b)(34) in the preamble to (b)(39), due to a drafting fault. 83 FR 61320.

Previously, the prefatory language has identified 3-methylthiofentanyl by paragraph number. However, the paragraph numbers have changed frequently over time, as new substances are identified and added to the list of schedule I substances in § 1308.11(b). In order to avoid similar oversights or confusion in the future, this correction changes the designation to reference 3-methylthiofentanyl by name rather than by paragraph number.

Because this final rule is limited to a technical correction for accuracy and does not substantively alter any regulation, and is therefore insignificant in nature and impact, and inconsequential to the public, the Agency finds good cause that notice and public procedure are unnecessary to the promulgation of this correction. 5 U.S.C. 553(b)(B). The Agency also finds that this technical correction merely clarifies or explains the existing regulation and is therefore an interpretive rule that does not require notice and comment rulemaking. 5 U.S.C. 553(b)(A); *see also Reno-Sparks Indian Colony v. EPA*, 336 F.3d 899, 909-10 (9th Cir. 2003) (stating that a Technical Correction “was interpretive because it does not change existing substantive law” and thus could be promulgated “by foregoing notice and comment procedures”).

Because, as described above, this final rule is limited to a technical correction for accuracy and does not substantively alter any regulation, and is therefore insignificant in nature and impact, and inconsequential to the public, the Agency finds good cause to make this final rule effective upon the date of publication and to forego thirty days prior notice. See 5 U.S.C. 553(d)(3). In addition, pursuant to 5 U.S.C. 553(d)(2), interpretive rules do not require thirty days prior notice before they may become effective. Therefore, because this technical correction is an

interpretive rule, it may be made effective immediately. 5 U.S.C. 553(d)(2).

#### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended as follows:

#### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

- 1. The authority citation for part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

- 2. Revise the introductory text of § 1308.11(b) to read as follows:

##### § 1308.11 Schedule I.

\* \* \* \* \*

(b) *Opiates.* Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of 3-methylthiofentanyl only, the term isomer includes the optical and geometric isomers):

\* \* \* \* \*

Dated: May 3, 2019.

**Uttam Dhillon,**

*Acting Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-484]

#### Schedules of Controlled Substances: Placement of beta-Hydroxythiofentanyl in Schedule I

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** With the issuance of this final rule, the Drug Enforcement Administration places *beta-hydroxythiofentanyl* (*N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide), also known as *N*-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-*N*-phenyl-propanamide, including its isomers, esters,