

processed and marketed commercially in consumer-type packages in the United States by such fluid milk processors. The Order further provides in section 1160.213 that if the Board or the Secretary determines through an audit of a processor's reports, records, books or accounts or through some other means that additional money is due to the Board, the Board is to notify that processor of the amount due or overpaid. If the processor owes money to the Board, the processor is to remit the underpaid amount by the next due date as provided in section 1160.211 of the Order. If the processor has overpaid, that amount is credited to the processor's account and applied against amounts due in succeeding months.

At the request and on behalf of the Board, Milk Market Administrators verify the total pounds of fluid milk products processed and commercially marketed in consumer-type packages (excluding delivering directly to the residence of a consumer) that were reported to the Board by the milk processors. Total fluid milk products are the sum of fluid milk product route sales and packaged fluid milk products sold to any other plant, less any fluid milk products purchased from other plants. The results of the Market Administrators' verification are forwarded to the Board, and, in accordance with section 1160.214(a), any unpaid assessments are increased by 1.5 percent each month beginning with the day following the date such assessments were due.

The Board has proposed an amendment to section 1160.213 of the Order so that processors who mistakenly underreport their pounds of fluid milk processed and marketed commercially (excluding direct delivery to the residence of a consumer) will not be required to pay late-fee charges on additional assessments owed the Board provided: (1) That no more than two erroneous reports have occurred in the preceding 12-month period and; (2) the processor pays its past due assessments not later than the last day of the month following notification by the Board that additional assessments are due. If more than two erroneous reports have occurred in the preceding 12-month period or the processor fails to submit a past due assessment when notified, late-payment charges will be assessed in accordance with section 1160.214 of the Order. This amendment would reduce the burden of late-payment charges in instances of assessment miscalculations.

The Board believes the late-payment charge is a necessary provision of the Order to encourage payment by all processors subject to the assessment and

helps ensure receipt of assessments owed to the Board. However, the Board believes that the late-payment charge could be viewed as excessive when applied to processors in instances of unintentional errors and miscalculations. The proposed amendment to the Order would not add any additional burden to the regulated parties because it relates only to provisions concerning adjustment of accounts.

In fact, the proposed rule would amend the Order to reduce the burden of late-fee charges applied to processors who underreport due to unintentional errors and miscalculations.

A thirty day comment period is provided for interested persons to comment on this proposed action. All comments received by February 27, 2008 will be considered. A thirty day period for public comment is deemed appropriate in order to implement the proposed changes, if adopted, as soon as possible.

#### List of Subjects in 7 CFR Part 1160

Fluid milk, Milk, Promotion.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1160 be amended as follows:

#### PART 1160—FLUID MILK PROMOTION PROGRAM

1. The authority citation for 7 CFR part 1160 continues to read as follows:

**Authority:** 7 U.S.C. 6401–6417.

2. Section 1160.213 is revised to read as follows:

##### § 1160.213 Adjustment of accounts.

Whenever the Board or the Secretary determines through an audit of a processor's reports, records, books or accounts or through some other means that additional money is due the Board or to such processor from the Board, the Board shall notify that person of the amount due or overpaid. If the processor owes money to the Board, it shall remit that amount by the next date for remitting assessments as provided in § 1160.211. For the first two erroneous reports submitted by a processor in the preceding twelve-month period, late-payment charges assessed pursuant to Section 1160.214 shall not begin to accrue until the day following such date. For all additional erroneous reports submitted by a processor during the twelve-month period, late-payment charges shall accrue from the date the payment was due. If the processor has overpaid, that amount shall be credited to its account and applied against amounts due in succeeding months.

Dated: January 18, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8–1433 Filed 1–25–08; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 23

[Docket No. CE286; Notice No. 23–08–03–SC]

#### Special Conditions: Embraer S.A., Model EMB–500, Airspeed Indicating System 23.1323(e)

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

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for the Embraer Model EMB–500 airplane. This airplane will have a novel or unusual design feature(s) associated with airspeed system. 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 February 27, 2008.

**ADDRESSES:** Mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE–7, 901 Locust, Room 506, Kansas City, Missouri 64106. You may deliver two copies to the Small Airplane Directorate at the above address. Mark your comments: Docket No. CE286. 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:** J. Lowell Foster, Small Airplane Directorate Standards Office, ACE–111, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Kansas City, MO 64106; telephone (816) 329–4125; facsimile (816) 329–4090.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite interested people to take part 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 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 CE286 appears. We will stamp the date on the postcard and mail it back to you.

### Background

On October 5, 2005, Embraer applied for a type certificate for their new Model EMB-500. The EMB-500 is predominantly a metal low-wing airplane with a "T" tail vertical and horizontal stabilizer. The Model EMB-500 provides accommodations for two pilots and up to four passengers in the main cabin area. It is powered by two Pratt and Whitney Canada PW&C 617F/1 turbofan engines with approximately 1600 pounds of thrust each. The engines are mounted on the aft fuselage pylons. Two redundant FADECs will control each engine. The maximum takeoff weight is 9965 pounds. The  $V_{MO}/M_{MO}$  speeds for the model EMB-500 are 275 KIAS/M0.70; and the maximum altitude is 41,000 feet.

### Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer must show that the EMB-500 meets the applicable provisions of part 23, effective February 1, 1965, as amended by amendments 23-1 through 23-55. If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR, part 23) do not contain adequate or appropriate safety standards for the Embraer Model 500 series because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in

accordance with § 11.38, and become part of the type certification basis in accordance with § 21.17(a)(2).

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, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

In addition to the applicable airworthiness regulations and special conditions, the EMB-500 must comply with the part 23 fuel vent and exhaust emission requirements of 14 CFR part 34 and the part 23 noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92-574, the "Noise Control Act of 1972."

### Novel or Unusual Design Features

The Embraer Model 500 will incorporate the following novel or unusual design features: aft-mounted turbojet engines, certain performance and flight characteristics, and operating limitations necessary for this type of airplane.

### Discussion

The proposed special conditions for the EMB-500 came from the 14 CFR part 23 commuter category. Section 23.1323(e) requires that the airspeed indicating system must be calibrated to determine the system error during the accelerate-takeoff ground run. The ground run calibration must be obtained between 0.8 of the minimum value of  $V_1$  and 1.2 times the maximum value of  $V_1$ , considering the approved ranges of altitude and weight. The ground run calibration must be determined assuming an engine failure at the minimum value of  $V_1$ .

Regarding the proposed SC 23.1323(e), Embraer understands that airspeed indicating system calibration in ground-effect should be performed up to the maximum  $V_2$  value, considering the approved range of altitude and weight. As  $V_1$  values are very close to  $V_2$  values on normal takeoffs, calibration up to 1.2  $V_1$  requires the calibration in ground-effect for speeds higher than  $V_2$ , when the airplane is already flying and out of ground-effect. Therefore, Embraer proposes that SC 23.1323(e) be changed to read like part 25, as follows:

"In addition, the airspeed indicating system must be calibrated to determine the system error during the accelerate-takeoff ground run. The ground run calibration must be obtained between 0.8 of the minimum value of  $V_1$  and the maximum value of  $V_2$ , considering the

approved ranges of altitude and weight. The ground run calibration must be determined assuming an engine failure at the minimum value of  $V_1$ ."

### Applicability

As discussed above, these special conditions are applicable to the Embraer Model 500 series. 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, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

### Conclusion

This action affects only certain novel or unusual design features on the Embraer Model 500 series of airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

The FAA agrees with Embraer's position and proposed revision of the special conditions for section 23.1323(e).

### List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

### The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Embraer Model EMB-500 series airplanes:

*SC 23.1323(e)*

In addition, the airspeed indicating system must be calibrated to determine the system error during the accelerate-takeoff ground run. The ground run calibration must be obtained between 0.8 of the minimum value of  $V_1$  and the maximum value of  $V_2$ , considering the approved ranges of altitude and weight. The ground run calibration must be determined assuming an engine failure at the minimum value of  $V_1$ .

Issued in Kansas City, Missouri on January 15, 2008.

**James E. Jackson,**

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

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