19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Customs duties and inspection, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ For the reasons stated in the preamble, DHS amends parts 212, 215 and 235 of title 8 of the Code of Federal Regulations and parts 4 and 122 of title 19 of the Code of Federal Regulations as set forth below:

8 CFR Chapter I—Amendments

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANT; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

■ 1. The general authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1359; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295). Section 212.1(q) also issued under section 702, Public Law 110–229, 100 Stat. 842.

§ 212.1 [Amended]

■ 2. Amend § 212.1, paragraphs (e)(1) introductory text and (q)(1) introductory text, by removing the date ''June 1, 2009'' and adding in its place ''November 28, 2009''.

PART 215—CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES

■ 3. The general authority citation for part 215 continues to read as follows:

Authority: 8 U.S.C. 1101; 1104; 1184; 1185 (pursuant to Executive Order 13323, published January 2, 2004); 1365a note. 1379, 1731–32.

§ 215.1 [Amended]

■ 4. Amend § 215.1, paragraphs (e), (g)(9), and (j), by removing the date ''June 1, 2009'' and adding in its place ''November 28, 2009''.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 5. The authority for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, published January 2, 2004), 1201, 1224, 1225, 1226, 1228, 1365a note, 1379, 1731–32; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458).

§ 235.5 [Amended]

■ 6. Amend § 235.5, paragraph (a), by removing the date ''June 1, 2009'' and adding in its place ''November 28, 2009''.

19 CFR Chapter 1—Amendments

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 7. The general authority for part 4 and the specific authority citation for § 4.7b continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66; 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. App. 3, 91.

* * * * *

Section 4.7b also issued under 8 U.S.C. 1101, 1221;

* * * * *

§ 4.7b [Amended]

■ 8. Amend § 4.7b, paragraph (a), in the definition of ''United States,'' by removing the date ''June 1, 2009'' and adding in its place ''November 28, 2009''.

PART 122—AIR COMMERCE REGULATIONS

■ 9. The general authority for part 122 and the specific authority citation for § 122.49a continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

Section 122.49a also issued under 8 U.S.C. 1101, 1221, 19 U.S.C. 1431, 49 U.S.C. 44909.

* * * * *

§ 122.49a [Amended]

■ 10. Amend § 122.49a, paragraph (a), in the definition of ''United States,'' by removing the date ''June 1, 2009'' and adding in its place ''November 28, 2009''.

Dated: May 21, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. E9–12345 Filed 5–27–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE295; Special Conditions No. 23–235–SC]

Special Conditions: Embraer S.A. Model EMB–505; Full Authority Digital Engine Control (FADEC) System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–505 airplane. This airplane will have a novel or unusual design feature(s) associated with the use of an electronic engine control system instead of a traditional mechanical control system. 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: The effective date of these special conditions is May 20, 2009. We must receive your comments by June 29, 2009.

ADDRESSES: Mail two copies of your comments to: Federal Aviation Administration, Small Airplane Directorate, Attn: Rules Docket (ACE–7), Docket No. CE295, 901 Locust, Room 301, Kansas City, Missouri 64106. You may deliver two copies to the Small Airplane Directorate at the above address. Mark your comments: Docket No. CE295. 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: Peter L. Rouse, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; 816–329–4135, fax 816–329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

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 about these special conditions. You may 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 by 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 us to let you know we received your comments on these special conditions, send us 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

On October 9, 2006, Embraer S.A. applied for a type certificate for their new Model EMB–505. The EMB–505 is a twin engine jet which has applied for type certification in the commuter category. As such, the airplane is proposed to be type certificated in the commuter category of 14 CFR part 23 (and comparable Brazilian requirements RBHA 23) by exemption from 14 CFR 23.3(d). The EMB–505 is predominantly of metallic construction and is a conventionally configured low-wing monoplane with a T-tail and tricycle landing gear. The airplane's maximum takeoff weight is 17490 pounds. The V_{MO}/M_{MO} is 320 KCAS/M .78, with a maximum operating altitude of 45,000 feet. Requested operations are day/night VFR/IFR and icing operations.

The Embraer S.A. Model EMB–505 airplane is equipped with two Pratt and Whitney of Canada 3360 pound thrust PW535E turbofan engines, each using an electronic engine control system (FADEC) instead of a traditional mechanical control system. Even though the engine control system will be certificated as part of the engine, the installation of an engine with an electronic control system requires evaluation due to critical environmental effects and possible effects on or by other airplane systems. For example, indirect effects of lightning, radio interference with other airplane electronic systems, shared engine and airplane data and power sources.

The regulatory requirements in 14 CFR part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in § 23.1309. However, when § 23.1309 was developed, the use of electronic control systems for engines was not envisioned. Therefore, the § 23.1309 requirements were not applicable to systems certificated as part of the engine (reference § 23.1309(f)(1)). Although the parts of the system that are not certificated with the engine could be evaluated using the criteria of § 23.1309, the integral nature of systems such as these makes it unfeasible to evaluate the airplane portion of the system without including the engine portion of the system.

In some cases, the airplane that the engine is used in will determine a higher classification (Advisory Circular (AC) 23.1309) than the engine controls are certificated for, which will require that the FADEC/DEEC systems be analyzed at a higher classification. Since November 2005, FADEC special conditions have mandated the classification for § 23.1309 analysis for loss of FADEC control as catastrophic for any airplane. This is not to imply that an engine failure is classified as catastrophic, but that the digital engine control must provide an equivalent reliability to mechanical engine controls.

Type Certification Basis

Under the provisions of 14 CFR § 21.17, Embraer S.A. must show that the Model EMB–505 meets the applicable provisions of 14 CFR part 23, as amended by Amendments 23–1 through 23–55, thereto.

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 Model EMB–505 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 Model EMB–505 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, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

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

Novel or Unusual Design Features

The Embraer S.A. Model EMB–505 will incorporate the following novel or unusual design features:

Electronic engine control system.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–505. 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.

Conclusion

This action affects only certain novel or unusual design features on one model, Model EMB–505, of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

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 S.A. Model EMB–505 is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

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 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 the Embraer S.A. Model EMB–505 airplanes.

1. Electronic Engine Control

The installation of the electronic engine control system must comply with the requirements of § 23.1309(a) through (e) at Amendment 23–55. The intent of this requirement is not to reevaluate the inherent hardware

reliability of the control itself, but rather determine the effects, including environmental effects addressed in § 23.1309(e), on the airplane systems and engine control system when installing the control on the airplane. When appropriate, engine certification data may be used when showing compliance with this requirement; however, the effects of the installation on this data must be addressed.

For these evaluations, the loss of FADEC control will be analyzed utilizing the threat levels associated with a catastrophic failure.

Issued in Kansas City, Missouri on May 20, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–12417 Filed 5–27–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0119; Directorate Identifier 2008–CE–068–AD; Amendment 39–15916; AD 2009–11–06]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LP Models SA226–AT, SA226–T, SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, and SA227–DC (C–26B) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) to supersede AD 2008–12–16, which applies to certain M7 Aerospace LP SA226 and SA227 series airplanes. AD 2008–12–16 currently requires you to inspect wires and tube assemblies for chafing, arcing, or insufficient clearance between components. If chafing, arcing, or insufficient clearance between components is found, AD 2008–12–16 requires you to clear, repair, and/or replace all chafed wires, components, and tube assemblies. AD 2008–12–16 also requires you to cover the four-gauge wires leaving the battery box with firesleeving and secure them with a clamp. Since we issued AD 2008–12–16, M7 Aerospace LP has notified us that Model SA227–BC (C–26A) was inadvertently left out of the Applicability section of the AD, and they updated some of the service information due to parts availability. Operators have also identified issues with model applicability that needed clarification. Consequently, this AD retains the actions of AD 2008–12–16, adds Model SA227–BC (C–26A) to the Applicability section, and regroups the models for clarification. We are issuing this AD to detect and correct chafing of electrical wires, components, and tube assemblies. This condition could result in arcing of exposed wires with consequent burning of a hole in a hydraulic line or the bleed air line. This failure could lead to a hydraulic fluid leak and a possible fire in the engine nacelle compartment.

DATES: This AD becomes effective on July 2, 2009.

On July 2, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in Table 2 of this AD.

As of July 23, 2008 (73 FR 34615, June 18, 2008), the Director of the Federal Register approved the incorporation by reference of certain publications listed in Table 3 of this AD.

ADDRESSES: For service information identified in this AD, contact M7 Aerospace Repair Station, 10823 NE Entrance Road, San Antonio, Texas 78216; telephone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.m7aerospace.com*.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov*. The docket number is FAA–2009–0119; Directorate Identifier 2008–CE–068–AD.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, ASW–150, Fort Worth Airplane Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222–5133; fax: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

On February 6, 2009, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain M7 Aerospace LP SA226 and SA227 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 12, 2009 (74 FR 7006). The NPRM proposed to supersede AD 2008–12–16 with a new AD that would retain the actions of AD 2008–12–16, add the Model SA227–BC (C–26A) to the Applicability section, and regroup the models for clarification.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and FAA's response:

Comment Issue: Inspection Applicability

George L. Smith commented that it was unclear if paragraph (e)(3) of the AD applied to airplanes with batteries mounted in the nose of the airplane or if the AD only applied to airplanes with the battery located in the wing leading edge.

As specified in the Applicability section, this AD applies to all serial numbers regardless of where the battery is located. Therefore the actions required in paragraph (e)(3) of this AD apply to all airplanes listed in the Applicability section regardless of where the battery is located. For added clarity we are adding the applicable serial numbers to the paragraph.

We are changing the final rule AD by adding the applicable serial numbers to each action based on this comment.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for the change previously discussed and minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 268 airplanes in the U.S. registry.

We estimate the following costs to do the inspection: