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 m^3 or less. Class C cargo compartments that are accessible to passengers with a volume greater than 10 m^3 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

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 application 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 multiple electrical/electronic equipment bays that are located throughout the airplane.

Existing regulations in §§ 25.855, 25.857 and 25.858 require that certain design features be incorporated into cargo compartments; require cargo compartments have a means to exclude hazardous quantities of smoke or fire extinguishing agent from penetrating into occupied areas of the airplane; and, require that smoke detectors be present. However, there are no requirements that address preventing hazardous quantities of smoke or extinguishing agent originating from the electrical/electronic equipment bays from penetrating into occupied areas of the airplane; or requiring that smoke or fire detectors be installed in electrical/electronic equipment bays.

The FAA believes that a means to detect smoke is needed in all electrical/electronic equipment bays on the Embraer 190–100 ECJ to ensure that the flightcrew can make an informed decision as to the source of smoke and can shut down electrical equipment when smoke is detected in the electrical/electronic equipment bays.

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 feature: Multiple electrical/electronic equipment bays located in the lower lobe and on the main deck of the airplane. These bays are an unusual design relative to those which have been previously certificated under 14 CFR part 25. The number and location of the electrical/electronic equipment bays on the ERJ 190–100 ECJ may contribute to an increased risk of smoke affecting passengers and crew.

Discussion

Section 25.855 contains the material standards and design considerations for cargo compartment interiors; the statement that each cargo compartment must meet one of the class requirements of § 25.857; and the flight tests which must be conducted for certification. Section 25.857 provides the standards for the various classes of transport category airplane cargo compartments including a smoke detector; means to shutoff the ventilating airflow; and a means to exclude hazardous quantities of smoke or fire extinguishing agent from penetrating into occupied areas of the airplane. Section 25.858 requires certain provisions be made for smoke detection. However, there are no requirements that address the following:

- Preventing hazardous quantities of smoke or extinguishing agent originating from the electrical/electronic equipment bays from penetrating into occupied areas of the airplane; or
- Installing smoke or fire detectors in electrical equipment bays.

Generally, transport category airplanes have one or two electrical/electronic equipment bays located in the lower lobe, adjacent to pressure regulator/outflow valves. If there were smoke in an electrical/electronic equipment bay, in most cases it is expected to be drawn toward the outflow valves and be discharged from the airplane without entering occupied areas. In the ERJ 190–100 ECJ, the electrical/electronic equipment bays are distributed throughout the airplane.

Only those equipment bays located in the lower lobe of the airplane are considered to be adjacent to pressure regulator/outflow valves.

For this combination of electrical/electronic equipment bays distributed throughout the airplane the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding smoke detection and control of smoke penetration. Based upon its review of incidents of smoke in the passenger cabin, the FAA determined that an airplane with electrical/electronic equipment bays located below, on, and above the main deck of an airplane presents a greater risk of smoke penetration than older designs with electrical/electronic bays only in the lower lobe adjacent to pressure regulator/outflow valves.

In the event of a fire, airplanes with older designs rely upon ''trial and error'' to determine whether the source of fire or smoke is in the electrical equipment bay. Typically, this involves the pilots following approved procedures in the Airplane Flight Manual. Those procedures may involve shutting down power to the avionics equipment in one electrical/electronic equipment bay and reconfiguring the airplane's environmental control system (e.g., shutting down the recirculation fan) to see whether the amount of smoke in the flightdeck or passenger compartment is reduced or eliminated. If these actions do not eliminate the smoke, the flight crew may turn the power back on in the one electrical/electronic equipment bay, shut it off in the other equipment bay, and reconfigure the environmental control system again to see whether the smoke is now reduced or eliminated.

This approach may be acceptable for airplanes with no more than two electrical/electronic equipment bays, both located in the lower lobe. In that case, there are only two options: the smoke or fire in an electrical equipment bay is in either one or the other. However, for an airplane with electrical equipment bays located below, on, and above decks, this approach is not sufficient, because—in the time it takes to determine the source of smoke—a fire could spread and the quantity of smoke could increase significantly.

Furthermore, the ''trial and error'' approach raises concern over the lack of informational awareness that a flight crew would have should smoke penetration occur. Many factors—including the airflow pattern, configuration changes in the environmental control system, potential leak paths, and location of outflow/regulator valves—would make it difficult to identify a smoke source, especially during flight or system transients, such as climbing/descending or changes in ventilation.

The FAA believes that smoke detectors are needed in all electrical/electronic equipment bays on the ERJ 190–100 ECJ to ensure that the flightcrew can make an informed decision as to the source of smoke and can shut down the specific electrical/electronic equipment bay from which the smoke is coming.

These special conditions, therefore, require that there be a smoke or fire detection system in each electrical/electronic equipment bay. They also include requirements to prevent propagation of hazardous quantities of smoke or fire extinguishing agent between or throughout the passenger cabins on the main deck and the upper deck.

The FAA believes that a means to detect smoke is needed in all electrical/electronic equipment bays on the Embraer 190–100 ECJ to ensure that the flightcrew can make an informed decision as to the source of smoke and can shut down electrical equipment when smoke is detected in the electrical/electronic equipment bays.

Therefore, the FAA is proposing a special condition that includes requirements to prevent propagation of smoke or extinguishing agents between or throughout cabins and to provide smoke or fire detection for electrical/electronic equipment bays.

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. Requirements to prevent propagation of smoke or extinguishing agents from entering the flight deck and passenger cabin:

(a) To prevent such propagation the following must be demonstrated: a means to prevent hazardous quantities of smoke or extinguishing agent originating from the electrical equipment bays from incapacitating passengers and crew.

(b) A ''small quantity'' of smoke may enter an occupied area only under the following conditions:

(1) The smoke enters occupied areas during system transients [1] from a source located below the flight deck and passenger cabin or on the same level as the flight deck and passenger cabin. No sustained smoke penetration beyond that from environmental control system transients is permitted.

(2) Penetration of the small quantity of smoke is a dynamic event, involving either dissipation or mobility. Dissipation is rapid dilution of the smoke by ventilation air, and mobility is rapid movement of the smoke into and out of the occupied area. In no case, should there be formation of a light haze indicative of stagnant airflow, as this would indicate that the ventilation system is failing to meet the requirements of § 25.831(b).

[1] Transient airflow conditions may cause air pressure differences between compartments, before the ventilation and pressurization system is reconfigured. Additional transients occur during changes to system configurations such as pack shut-down, fan shut-down, or changes in cabin altitude; transition in bleed source change, such as from intermediate stage to high stage bleed air; and cabin pressurization ''fly-through'' during descent may reduce air conditioning inflow. Similarly, in the event of a fire, a small quantity of smoke that penetrates into an occupied area before the ventilation system is reconfigured would be acceptable under certain conditions described within this special condition.

(3) The smoke from a smoke source below the flight deck and passenger cabin must not rise above armrest height on the main deck.

(4) The smoke from a source on the same level as the flight deck and passenger cabin must dissipate rapidly via dilution with fresh air and be evacuated from the airplane. A procedure must be included in the Airplane Flight Manual to evacuate smoke from the occupied areas of the airplane. In order to demonstrate that the quantity of smoke is small, a flight test must be conducted which simulates the emergency procedures used in the event of a fire during flight, including the use of V_{mo}/M_{mo} descent profiles and a simulated landing, if such conditions are specified in the emergency procedure.

2. Requirement for fire detection in electrical/electronic equipment bays:

(a) A smoke or fire detection system compliant with §§ 25.858 and 25.855 must be provided that will detect fire/smoke within each electrical/electronic equipment bay.

(b) Each system must provide a visual indication to the flight deck within one minute after the start of a fire in an electrical/electronic equipment bay.

(c) Airplane flight tests must be conducted to show compliance with these requirements, and the performance of the smoke or fire detectors must be shown in accordance with guidance provided in the latest version of Advisory Circular 25–9, or other means acceptable to the FAA.

(d) A procedure to shut down all non-essential systems in the electrical/electronic equipment bays following a smoke detection in any electrical/electronic equipment bay must be included in the Airplane Flight Manual.

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

Philip L. Forde,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–8577 Filed 4–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. OSHA–2007–0026]

RIN 1218–AB47

Confined Spaces in Construction

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; notice of hearing.

SUMMARY: OSHA is convening an informal public hearing to receive testimony and documentary evidence on the proposed rule for Confined Spaces in Construction.

DATES: *Informal Public Hearing.* The Agency will hold the informal public hearing in Washington, DC beginning July 22, 2008. The hearing will commence at 10 a.m. on the first day. If necessary, a second or third day will be scheduled. The hearing will begin at 9 a.m. on subsequent days.

Notice of intention to appear to provide testimony at the informal public hearing. Parties who intend to present testimony at the informal public hearing must notify OSHA in writing of their intention to do so no later than May 21, 2008.

Hearing Testimony and Documentary Evidence. Parties who are requesting more than 10 minutes to present their testimony, or who will be submitting documentary evidence at the hearing, must provide the Agency with copies of their full testimony and all documentary evidence they plan to present by June 20, 2008.

ADDRESSES: *Informal Public Hearing.* The informal public hearing will be held in Washington, DC, in the auditorium on the plaza level of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

Notices of intention to appear at the hearing, hearing testimony, and documentary evidence. Submit notices of intention to appear at the informal public hearing, hearing testimony, and documentary evidence, identified by the docket number (OSHA 2007–0026) or the regulatory information number (RIN; 1218–AB47), using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting the material.
- *Facsimile:* Send submissions consisting of 10 or fewer pages to the OSHA Docket Office at (202) 693–1648. Hard copies of these documents are not required. Instead of transmitting facsimile copies of attachments that supplement these documents (*e.g.*, studies, journal articles), submit these attachments, in triplicate hard copy, to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.*, OSHA–2007–0026) so that the agency can attach them to the appropriate document.
- *Regular mail, express delivery, hand delivery, and courier service:* Send submissions in triplicate (3 copies) to the OSHA Docket Office, Docket No. OSHA–2007–0026, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Note that security-related problems may result in significant delays in receiving submissions by regular mail. Please contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or courier service. The OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., ET.

Instructions. All submissions must include the agency name and the OSHA docket number (*i.e.*, OSHA–2007–0026). All submissions, including any personal information, are placed in the public docket without revision, and will be available online at *http://www.regulations.gov*. Therefore, OSHA cautions members of the public against submitting information and statements that should remain private, including comments that contain personal information (either about themselves or others) such as social security numbers, birth dates, and medical data. For additional information on submitting notices of intention to appear, the text of testimony, and documentary evidence, see the Public Participation—Comments and Hearings section below.

Docket. To read or download comments or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. Documents in the docket are listed in the *http://www.regulations.gov* index. However, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions, including notices of intention to appear, the text of testimony, and documentary evidence.

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries, contact Ms. Jennifer Ashley, Director, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. For technical inquiries, contact Mr. Garvin Branch, Directorate of Construction, Room N–3468, OSHA,