

(2) The marketing order, as amended, and as hereby further amended, regulates the handling of almonds grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of almonds grown in the production area; and

(5) All handling of almonds grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional Findings.*

It is necessary and in the public interest to make these amendments effective not later than one day after publication in the **Federal Register**. A later effective date would unnecessarily delay implementation of the new amendments. These amendments should be in place as soon as possible as the new crop year begins August 1. Making the effective date one day after publication in the **Federal Register** will allow the industry to consider regulations implementing the new order authorities at the beginning of the new crop year, which would be beneficial to the industry.

(c) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping almonds covered by the order as hereby amended) who, during the period August 1, 2006, through July 31, 2007, handled 50 percent or more of the volume of such almonds covered by said order, as hereby amended, have not signed an amended marketing agreement; and,

(2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of August 1, 2006, through July 31, 2007 (which has been deemed to be a representative period), have been engaged within the production area in the production of such almonds, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum; and

(3) In the absence of a signed marketing agreement, the issuance of this amendatory order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers of almonds in the production area.

## Order Relative to Handling of Almonds Grown in California

*It is therefore ordered*, that on and after the effective dates hereof, all handling of almonds grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of the proposed order further amending the order contained in the Secretary's Decision issued by the Administrator on February 27, 2008, and published in the **Federal Register** on March 3, 2008 (73 FR 11360), shall be and are the terms and provisions of this order amending the order and set forth in full herein.

### List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

### PART 981—ALMONDS GROWN IN CALIFORNIA

■ For the reasons set forth in the preamble, Title 7 of Chapter XI of the Code of Federal Regulations is amended by amending part 981 to read as follows:

■ 1. The authority citation for 7 CFR part 981 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Amend paragraph (b) of § 981.42 by adding the following sentence before the last sentence to read as follows:

#### § 981.42 Quality control.

\* \* \* \* \*

(b) \* \* \* The Board may, with the approval of the Secretary, establish different outgoing quality requirements for different markets. \* \* \*

■ 3. Add a new § 981.43 to read as follows:

#### § 981.43 Marking or labeling of containers.

The Board may, with the approval of the Secretary, establish regulations to require handlers to mark or label their containers that are used in packaging or handling of bulk almonds. For purposes of this section, *container* means a box, bin, bag, carton, or any other type of receptacle used in the packaging or handling of bulk almonds.

Dated: July 30, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8–17827 Filed 8–1–08; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM390; Special Conditions No. 25–372–SC]

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

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

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for the Embraer S.A., Model ERJ 190–100 ECJ airplane. This airplane has a novel or 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 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 Date:* September 3, 2008.

**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:

##### Background

Embraer S.A., made the original application for certification of the Model ERJ 190 on May 20, 1999. The Embraer application includes six different models, the initial variant being designated as the Model ERJ 190–100. The application was submitted concurrently with that for the Model ERJ 170–100, which received an FAA type certificate (TC) on February 20, 2004. Although the applications were submitted as two distinct TCs, the airplanes share the same conceptual design and general configuration. On July 2, 2003, Embraer S.A., submitted a request for an extension of its original application for the Model 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., amended the application to include the Model ERJ 190–100 ECJ. The Model ERJ 190–100 ECJ is a derivative of the Model ERJ 190 which is approved under Type Certificate No. A57NM. The Model ERJ 190–100 ECJ is a low wing, transport-category airplane powered by two wing-mounted General Electric CF34–10E6 turbofan engines. The airplane is a 19 passenger regional jet with a maximum takeoff 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 Model ERJ 190–100 ECJ design includes multiple electrical/electronic equipment bays that are located throughout the airplane.

#### 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 Model ERJ 190–100 ECJ. The regulations incorporated by reference in the type certificate are commonly referred to as the “original type certification basis.”

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the 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 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 S.A., 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 Model 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/electronic 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 Model 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/electronic 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 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/electronic equipment bay is in either one or the other. However, for an airplane with electrical/electronic 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 Model 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.

### Discussion of Comments

Notice of proposed special conditions No. 25-08-04-SC for the Embraer S.A., Model ERJ 190-100 ECJ airplanes was published in the **Federal Register** on April 21, 2008 (73 FR 21288). A comment was received was in favor of the proposed special conditions and these special conditions were adopted as proposed with one correction as defined below.

During a review of the Notice of proposed special conditions No. 25-08-04-SC for the Embraer S.A., Model ERJ 190-100 ECJ airplanes, the FAA noted that the proposed flight test special condition demonstrating that only a "small quantity" of smoke may enter an occupied area from an electrical/electronic equipment bay is not consistent with the "Discussion" section of the document. The "Discussion" section clearly states that electrical/electronic equipment bays located below, on, and above the main deck of an airplane present a greater risk of smoke penetration than older designs. The proposed flight test special condition was inadvertently limited to smoke penetration flight tests for electrical/electronic equipment bays located on the main deck of the airplane. The final special condition has been corrected to reflect the FAA's original intent to require smoke penetration flight tests from all electrical/electronic equipment bay locations.

### Applicability

As discussed above, these special conditions are applicable to the Embraer S.A., Model ERJ 190-100 ECJ airplanes. Should Embraer S.A., apply at a later date for a change to the type certificate to include another model on the same type certificate 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 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

■ 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 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<sup>1</sup> 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).

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

(4) The smoke from a source in an electrical/electronic equipment bay

<sup>1</sup> 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.

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 July 22, 2008.

**Michael J. Kaszycki,**

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

[FR Doc. E8-17756 Filed 8-1-08; 8:45 am]

**BILLING CODE 4910-13-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0003; FRL-8696-3]

### Approval and Promulgation of Air Quality Implementation Plans; Illinois

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Illinois State Implementation Plan (SIP) for ozone. The state is incorporating revisions EPA made to its definition of volatile organic compound (VOC). This SIP revision adds one compound to the list of compounds that