

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM248; Special Conditions No. 25-03-03-SC]

Special Conditions: Embraer Model ERJ-170 Series Airplanes; Electronic Flight Control Systems; Automatic Takeoff Thrust Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions; reopening of comment period.

SUMMARY: This document revises proposed special conditions which were previously published in the **Federal Register** for the Embraer Model ERJ-170 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features are associated with (1) Electronic Flight Control Systems and (2) Automatic Takeoff Thrust Control System (ATTCS). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. 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. This revision adds a limitation on the amount of performance credit to be given for the propulsive thrust provided by the ATTCS that was omitted from the original notice. Additional special conditions will be issued for other novel or unusual design features of Embraer Model 170 series airplanes.

DATES: Comments must be received on or before July 7, 2003.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal

Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM248, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM248. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1503; facsimile (425) 227-1149; e-mail tom.groves@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting 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 proposed special conditions. The docket is available for public inspection 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 notice 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 the proposed special conditions in light of 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

On May 20, 1999, Embraer applied for a type certificate for its new Model ERJ-170 airplane. Two basic versions of the Model ERJ-170 are included in the application. The ERJ-170-100 airplane is a 69-78 passenger, twin-engine regional jet with a maximum takeoff weight of 81,240 pounds. The ERJ-170-200 is a derivative with a lengthened fuselage. Passenger capacity for the ERJ-170-200 is increased to 86, and maximum takeoff weight is increased to 85,960 pounds.

Special conditions—pertaining to Electronic Flight Control Systems and to the ATTCS—were proposed as part of the type certification basis applicable to Embraer Model ERJ-170 series airplanes. These proposed special conditions were initially published in the **Federal Register** on April 23, 2003 (68 FR 19958). Shortly thereafter, the Federal Aviation Administration (FAA) received new information which indicated the need for a limitation on the amount of performance credit to be given for the propulsive thrust provided by the ATTCS that was omitted from the original notice. The purpose of the limitation is to reduce adverse performance effects of a failure of the ATTCS and to ensure adequate all-engines-operating go-around performance.

Upon consideration, the FAA determined that a limitation reflecting the new information must be incorporated into the special conditions for the Embraer Model ERJ-170 series airplanes. Accordingly, the FAA is issuing this supplemental notice of proposed special conditions. A description of the proposed limitation is provided in the preamble of this document (*see* Novel or Unusual Design Features, paragraph II), and the proposed limitation itself is included as paragraph 2.(e) of The Proposed Special Conditions.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer must show that the Model ERJ-170 series airplanes meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-98.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety