

after a copy has been served upon all parties.

(f) The party that requests the DRO to issue a subpoena or order under this section shall be responsible for the payment of fees and mileage, as required by 49 U.S.C. 46104(d), for witnesses, officers who serve the order, and the officer before whom a deposition is taken.

(g) Subpoenas and orders issued under this section may be enforced in a judicial proceeding under 49 U.S.C. 46104(b).

#### **§ 17.55 Standing orders of the ODRA Director.**

The Director may issue such Standing Orders as necessary for the orderly conduct of business before the ODRA.

### **Subpart G—Pre-Disputes**

#### **§ 17.57 Dispute resolution process for Pre-Disputes.**

(a) All potential disputes arising under contracts or solicitations with the FAA may be resolved with the consent of the parties to the dispute under this subpart.

(b) Pre-disputes shall be filed with the ODRA pursuant to § 17.59.

(c) The time limitations for the filing of Protests and Contract Disputes established in §§ 17.15(a) and 17.27(c) will not be extended by efforts to resolve the dispute under this subpart.

#### **§ 17.59 Filing a Pre-Dispute.**

(a) A Pre-dispute must be in writing, affirmatively state that it is a Pre-dispute pursuant to this subpart, and shall contain:

(1) The party's name, address, telephone and Fax numbers and the name, address, telephone and Fax numbers of the contractor's legal representative(s) (if any);

(2) The contract or solicitation number and the name of the Contracting Officer;

(3) A chronological statement of the facts and of the legal grounds for the party's positions regarding the dispute citing to relevant contract or solicitation provisions and documents and attaching copies of those provisions and documents; and

(4) The signature of a duly authorized legal representative of the initiating party.

(b) Pre-disputes shall be filed at the following address: ODRA, AGC-70, Federal Aviation Administration, 800 Independence Avenue, SW., Room 323, Washington, DC 20591; Telephone: (202) 267-3290, Fax: (202) 267-3720.

(c) Upon the filing of a Pre-dispute with the ODRA, the ODRA will contact the opposing party to offer its services

pursuant to § 17.57. If the opposing party agrees, the ODRA will provide Pre-dispute services. If the opposing party does not agree, the ODRA Pre-dispute file will be closed and no service will be provided.

#### **§ 17.61 Use of alternative dispute resolution.**

(a) Only non-binding, voluntary ADR will be used to attempt to resolve a Pre-dispute pursuant to § 17.37.

(b) ADR conducted under this subpart is subject to the confidentiality requirements of § 17.39.

### **Appendix A to Part 17—Alternative Dispute Resolution (ADR)**

A. The FAA dispute resolution procedures encourage the parties to protests and contract disputes to use ADR as the primary means to resolve protests and contract disputes, pursuant to the Administrative Dispute Resolution Act of 1996, Public Law 104-320, 5 U.S.C. 570-579, and Department of Transportation and FAA policies to utilize ADR to the maximum extent practicable. Under the procedures presented in this part, the ODRA encourages parties to consider ADR techniques such as case evaluation, mediation, or arbitration.

B. ADR encompasses a number of processes and techniques for resolving protests or contract disputes. The most commonly used types include:

(1) *Mediation*. The neutral or compensated neutral ascertains the needs and interests of both parties and facilitates discussions between or among the parties and an amicable resolution of their differences, seeking approaches to bridge the gaps between the parties' respective positions. The neutral or compensated neutral can meet with the parties separately, conduct joint meetings with the parties' representatives, or employ both methods in appropriate cases.

(2) *Neutral Evaluation*. At any stage during the ADR process, as the parties may agree, the neutral or compensated neutral will provide a candid assessment and opinion of the strengths and weaknesses of the parties' positions as to the facts and law, so as to facilitate further discussion and resolution.

(3) *Binding Arbitration*. The ODRA, after consultation with the United States Department of Justice in accordance with the provisions of the Administrative Disputes Resolution Act offers true binding arbitration in cases within its jurisdiction. The ODRA's Guidance for the Use of Binding Arbitration may be found on its website at: <http://www.faa.gov/go/odra>.

Issued in Washington, DC, on July 25, 2011.

**J. Randolph Babbitt,**  
*Administrator.*

[FR Doc. 2011-22842 Filed 9-6-11; 8:45 am]

**BILLING CODE 4910-13-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 23**

[Docket No. CE315; Special Conditions No. 23-254-SC]

#### **Special Conditions: Embraer S.A.; Model EMB 505; Single-Place Side-Facing Lavatory Seat Dynamic Test Requirements**

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Embraer S.A., EMB 505 airplane. This airplane will have a novel or unusual design feature(s) associated with the installation of a single-place side-facing seat. The applicable airworthiness regulations do not provide adequate or appropriate safety standards for this design feature. In order to provide a level of safety that is equivalent to that afforded to occupants of forward and aft facing seating, additional airworthiness standards, in the form of special conditions, are necessary.

**DATES:** The effective date of these special conditions is August 31, 2011. Comments must be received on or before October 7, 2011.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration (FAA), Regional Counsel, ACE-7, Attention: Rules Docket, Docket No. CE315, 901 Locust, Room 506, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: CE315. 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:** Mr. Bob Stegeman, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 901 Locust, Kansas City, Missouri, 816-329-4140, fax 816-329-4090, e-mail [Robert.Stegeman@faa.gov](mailto:Robert.Stegeman@faa.gov).

**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 approval design 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 instance 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 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 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 14, 2010, Embraer S.A. applied for a design change to Type Certificate No. A60CE for installation of a side-facing belted lavatory in the EMB-505 airplane. The belted lavatory will be used as a passenger seat during takeoff and landing; therefore, comply with the provisions of §§ 23.562 and 23.785 (in addition to the certification basis as established in type certificate A60CE) and any additional requirements the FAA determines are applicable. In this case, the approval of a side-facing seat to these provisions is considered new and novel and as such will require special conditions and specific methods of compliance to certificate.

14 CFR part 23 was amended August 8, 1988, by Amendment 23-36, to revise the emergency landing conditions that must be considered in the design of the airplane. Amendment 23-36 revised the static load conditions in § 23.561, and added a new § 23.562 that required dynamic testing for all seats approved

for occupancy during takeoff and landing. The intent of Amendment 23-36 is to provide an improved level of safety for occupants on part 23 airplanes. Because most seating is forward-facing in part 23 airplanes, the pass/fail criteria developed in Amendment 23-36 focused primarily on these seats. Since the regulations do not address side-facing seats, these criteria should be documented in special conditions.

The FAA decision to review compliance with these regulations stems from the fact that the current regulations do not provide adequate and appropriate standards for the type certification of this type of seat.

These requirements are substantially similar to other single-place side-facing seat installations approved for use on several different part 25 aircraft.

#### Type Certification Basis

Under the provisions of § 21.101, Embraer S.A. must show that the model EMB 505 meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A60CE or the applicable regulations in effect on the date of application for the change to the Embraer model 505 type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the “original type certification basis.”

The following model is covered by this special condition:

*Embraer S.A. EMB 505:*

For the model listed above, the certification basis also includes all exemptions, if any; equivalent level of safety findings, if any; and special conditions not relevant to the special conditions adopted by this rulemaking action.

If the Administrator determines that the applicable airworthiness regulations (*i.e.*, part 23 as amended) do not contain adequate or appropriate safety standards for the Embraer S.A. model EMB 505 with a side-facing seat as installed on this Embraer S.A. Aircraft model because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

The FAA issues special conditions, as appropriate, as defined in § 11.19, in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

#### Novel or Unusual Design Features

The Embraer S.A., model EMB 505, will incorporate the following novel or unusual design feature:

A side-facing lavatory seat intended for taxi/takeoff and landing.

#### Discussion

The seat is to incorporate design features that reduce the potential for injury in the event of an accident. In a severe impact, the occupant will be restrained by a 2-point seatbelt and bear on an adjacent padded wall. In addition to the design features intended to minimize occupant injury during an accident sequence, the installation will also require operational procedures that will facilitate egress after an accident, including leaving the lavatory door locked open during taxi, takeoff and landing. The adjacent forward wall/bulkhead interior structure will have padding, which will provide some protection to the head of the occupant.

The Code of Federal Regulations states performance criteria for forward- and aft-facing seats and restraints in an objective manner. However, none of these criteria are adequate to address the specific issues raised concerning side-facing seats. Therefore, the FAA has determined that, in addition to the requirements of parts 23, special conditions are needed to address the installation of this seat installation/restraint.

Accordingly, these special conditions are for the Embraer S.A., model EMB 505, side-facing seat location. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

#### Applicability

As discussed above, these special conditions are applicable to the 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 of airplane. 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 substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the

certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

#### 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 21.101; and 14 CFR 11.38 and 11.19.

#### The Special Conditions

The minimum acceptable standards for dynamic seat certification of the belted lavatory seat are as follows:

(a) *Existing Criteria.* As referenced by § 23.785(b), all injury protection criteria of §§ 23.562(c)(1) through (c)(7) apply to the occupants of the side-facing seats. Head injury criteria (HIC) assessments are only required for head contact with the seat and/or adjacent structures.

(b) *Body-to-wall/furnishing contact.* The seat must be installed aft of a structure such as an interior wall or furnishing that will contact the pelvis, upper arm, chest, or head of an occupant seated next to the structure. A conservative representation of the structure and its stiffness must be included in the tests. It is required that the contact surface of this structure must be covered with at least two inches of energy absorbing protective padding (foam or equivalent), such as Ensolite.

(c) *Thoracic Trauma.* Testing with a Side Impact Dummy (SID), as defined by 49 CFR part 572, Subpart F, or its equivalent, must be performed in order to establish Thoracic Trauma Index (TTI) injury criteria. TTI acquired with the SID must be less than 85, as defined in 49 CFR part 572, Subpart F. SID TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) Part 571.214, section S6.13.5. Rational analysis, comparing an installation with another installation where TTI data were acquired and found acceptable, may also be viable.

(d) *Pelvis.* Pelvic lateral acceleration must not exceed 130g. Pelvic acceleration data must be processed as defined in FMVSS Part 571.214, section S6.13.5.

(e) *Shoulder Strap Loads.* Where upper torso straps (shoulder straps) are

used for occupants, tension loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap tension loads must not exceed 2,000 pounds.

(f) *Compression Loads.* The compression load measured between the pelvis and the lumbar spine of the ATD may not exceed 1,500 pounds.

(g) *Emergency Evacuation.* When occupied, the lavatory door must be latched open for takeoff and landing and must remain latched under the § 23.561(b) loads. The airplane configuration must meet the emergency evaluation requirements of its certification basis with the seat occupied.

(h) *Lavatory Door Placard.* A placard specifying the lavatory door must be latched open for takeoff and landing when occupied must be displayed on the outside of the door.

(i) *Test Requirements in § 23.562 dynamic loads.* The tests in § 23.562(a), (b) and (c) must be conducted on the lavatory seat. Floor deformation is required except for a seat that is cantilevered to the bulkhead.

The following are the agreed to methods of compliance and testing requirements:

#### General Test Guidelines

(a) One longitudinal test with the SID ATD or its equivalent, undeformed floor, no yaw, and with all lateral structural supports (armrests/walls) will be accomplished.

—Pass/fail injury assessments: TTI and pelvic acceleration.

(b) One longitudinal test with the Hybrid II ATD, deformed floor, with 10 degrees yaw, and with all lateral structural supports (armrests/walls) will be accomplished.

—Pass/fail injury assessments: HIC and upper torso restraint load, restraint system retention and pelvic acceleration.

(c) Vertical (15 G's) test is to be conducted with modified Hybrid II ATDs with existing pass/fail criteria.

(d) The ATD can be tethered for the floor deformation test.

(e) The seatbelt is not required to have a TSO Authorization but will need to comply with the TSO-C22g Minimum Performance Standards (MPS).

Issued in Kansas City, Missouri, on August 31, 2011.

**Earl Lawrence,**

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

[FR Doc. 2011-22880 Filed 9-6-11; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2011-0402; Airspace Docket No. 11-ASO-18]

#### Establishment of Class E Airspace; Copperhill, TN

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E Airspace at Copperhill, TN, to accommodate the new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures serving Martin Campbell Field Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System.

**DATES:** Effective 0901 UTC, October 20, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-6364.

#### SUPPLEMENTARY INFORMATION:

##### History

On June 17, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class E airspace at Copperhill, TN (76 FR 35370) Docket No. FAA-2011-0402. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

##### The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes the Class E airspace extending upward from 700 feet above the surface at Copperhill, TN to provide the controlled airspace required to