

**DEPARTMENT OF ENERGY****10 CFR Parts 429 and 431****[Docket No. EERE-2014-BT-TP-0006]****RIN 1904-AD16****Energy Conservation Program: Test Procedure for Commercial Packaged Boilers; Withdrawal**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Final rule; withdrawal.

**SUMMARY:** The U.S. Department of Energy (DOE) is withdrawing its final rule to amend its test procedure for commercial packaged boilers which published in the **Federal Register** on Thursday, November 10, 2016. The final rule published on November 10, 2016 contained errors. Therefore, DOE is withdrawing the final rule in its entirety and will republish the final rule amending its test procedure for commercial packaged boilers.

**DATES:** Effective December 7, 2016, the final rule published November 10, 2016 (81 FR 79224), effective December 12, 2016, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-8654. Email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:** DOE is withdrawing its final rule to amend its test procedure for commercial packaged boilers which published in the **Federal Register** on Thursday, November 10, 2016 (81 FR 79224). Among other amendments, the final rule incorporates by reference certain sections of the American National Standards Institute (ANSI)/Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 1500, "2015 Standard for Performance Rating of Commercial Space Heating Boilers," provides an optional field test for commercial packaged boilers with rated input greater than 5,000,000 Btu/h, and modifies the inlet water temperatures during tests of hot water commercial packaged boilers.

Because the November 10, 2016, rule contained errors, DOE is withdrawing the final rule in its entirety and will republish the final rule amending its test procedure for commercial packaged boilers.

Issued in Washington, DC, on November 29, 2016.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

[FR Doc. 2016-29078 Filed 12-6-16; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 25****[Docket No. FAA-2016-9461; Special Conditions No. 25-642-SC]****Special Conditions: Embraer S.A., Model ERJ 190-300 Series Airplanes; Landing Pitchover Condition**

**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 ERJ 190-300 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is an automatic braking system with a pilot-selectable function that allows earlier braking at landing without pilot pedal input. 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:** This action is effective on Embraer S.A. on December 7, 2016. We must receive your comments by January 23, 2017.

**ADDRESSES:** Send comments identified by docket number FAA-2016-9461 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey

Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* The FAA will post all comments it receives, without change, to <http://www.regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Greg Schneider, FAA, Airframe and Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057-3356; telephone 425-227-2116; facsimile 425-227-1320.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would delay issuance of the design approval and thus delivery of the affected airplane.

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 publication in the **Federal Register**.

**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 will consider all comments we receive by the closing date for

comments. We may change these special conditions based on the comments we receive.

### Background

On September 13, 2013, Embraer S.A. applied for an amendment to Type Certificate (TC) No. A57NM to include the new Model ERJ 190–300 series airplanes. The ERJ 190–300, which is a derivative of the ERJ 190–100 STD currently approved under TC No. A57NM, is a 97–114 passenger transport category airplane with two Pratt & Whitney Model PW1900G engines, a new wing design with a high aspect ratio and raked wingtip, digital fly-by-wire electronic flight control system, and an automatic braking system.

### Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Embraer S.A. must show that the ERJ 190–300 meets the applicable provisions of the regulations listed in Type Certificate No. A57NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. Embraer S.A. must show that the ERJ 190–300 meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–137.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the ERJ 190–300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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 features, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the ERJ 190–300 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 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

### Novel or Unusual Design Features

The ERJ 190–300 will incorporate the following novel or unusual design features:

An automatic braking system with a pilot-selectable function that allows earlier braking at landing without pilot pedal input. When the autobrake system is armed before landing, it automatically commands a pre-defined braking action after the main wheels touch down. This might cause a high nose gear sink rate, and potentially higher gear and airframe loads than would occur with a traditional braking system.

### Discussion

These special conditions define a landing pitchover condition that accounts for the effects of the automatic braking system. The special conditions define the airplane configuration, speeds, and other parameters necessary to develop airframe and nose gear loads for this condition. The special conditions require that the airplane be designed to support the resulting limit and ultimate loads as defined in § 25.305.

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.

### Applicability

As discussed above, these special conditions are applicable to the ERJ 190–300 series airplanes. 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, these special conditions would apply to that model as well.

### Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

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 affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. 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 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 the Embraer S.A. Model ERJ 190–300 series airplanes.

A landing pitchover condition must be addressed that takes into account the effect of the autobrake system. The airplane is assumed to be at the design maximum landing weight, or at the maximum weight allowed with the autobrake system on. The airplane is assumed to land in a tail-down attitude and at the speeds defined in § 25.481. Following main gear contact, the airplane is assumed to rotate about the main gear wheels at the highest pitch rate allowed by the autobrake system.

This is considered a limit load condition from which ultimate loads must also be determined. Loads must be determined for critical fuel and payload distributions and centers of gravity. The effect of the autobrake system on fatigue loading spectra must also be investigated. Nose gear loads, as well as airframe loads, must be determined. The airplane must meet § 25.305 for these loads.

Issued in Renton, Washington, on November 15, 2016.

**Paul Bernado,**

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

[FR Doc. 2016–29358 Filed 12–6–16; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1

[Docket No. FDA–2011–N–0146]

#### Third-Party Certification Body Accreditation for Food Safety Audits: Model Accreditation Standards; Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.