to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety, and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104–106, 110 Stat. 517, is deemed to be an employee for purposes of this part during continuous employment with the Corporation unless the individual files an election under § 831.206(c) or § 842.109(c) of this title. Such a covered individual is treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to FEGLI. The individual is entitled to the benefits of, and is subject to all conditions under, FEGLI on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period terminates eligibility for coverage under FEGLI as an employee during any subsequent employment by the Corporation.

(c) The Corporation must withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the premiums withheld from the pay of a Federal employee for FEGLI coverage and, in accordance with procedures established by OPM, pay into the Employees' Life Insurance Fund the amounts deducted from the individual's pay.

(d) The Corporation must, in accordance with procedures established by OPM, pay into the Employees' Life Insurance Fund amounts equal to any agency contributions required under FEGLI.

## PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 7. The authority citation for part 890 is revised to read as follows:

**Authority:** 5 U.S.C. 8913; Sec. 890.303 also issued under Sec. 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; Subpart L also issued under Sec. 599C of Public Law 101–513, 104 Stat. 2064, as amended; Sec. 890.102 also issued under Secs. 11202(f), 11232(e), 11246(b) and (c) of Public Law 105–33, 111 Stat. 251; Sec. 721 of Public Law 105–261, 112 Stat. 2061 unless otherwise noted; Sec. 890.111 also issued under Sec. 1622(b) of Public Law 104–106, 110 Stat. 515.

### Subpart A—Administration and General Provisions

■ 8. Add § 890.111 to read as follows:

**§ 890.111 Continuation of eligibility for former Federal employees of the Civilian Marksmanship Program.**

(a) A Federal employee who was employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation for the Promotion of Rifle Practice and Firearms Safety, and was offered and accepted employment by the Corporation as part of the transition described in section 1612(d) of Public Law 104–106, 110 Stat. 517, is deemed to be an employee for purposes of this part during continuous employment with the Corporation unless the individual files an election under § 831.206(c) or § 842.109(c) of this title. Such a covered individual is treated as if he or she were a Federal employee for purposes of this part, and of any other part within this title relating to the FEHB Program. The individual is entitled to the benefits of, and is subject to all conditions under, the FEHB Program on the same basis as if the individual were an employee of the Federal Government.

(b) Cessation of employment with the Corporation for any period terminates eligibility for coverage under the FEHB Program as an employee during any subsequent employment by the Corporation.

(c) The Corporation must withhold from the pay of an individual described by paragraph (a) of this section an amount equal to the premiums withheld from the pay of a Federal employee for FEHB coverage and, in accordance with procedures established by OPM, pay into the Employees Health Benefits Fund the amounts deducted from the individual's pay.

(d) The Corporation must, in accordance with procedures established by OPM, pay into the Employees Health Benefits Fund amounts equal to any agency contributions required under the FEHB Program.

[FR Doc. E9–29878 Filed 12–15–09; 8:45 am]

**BILLING CODE 6325–39–P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### 7 CFR Part 1435

### Sugar Program Definitions

*CFR Correction*

In Title 7 of the Code of Federal Regulations, Parts 1200 to 1599, revised as of January 1, 2009, on page 617, in § 1435.2, following the definition of ''ability to market'', reinstate the definition of ''allocation'' to read as follows:

**§ 1435.2 Definitions.**

* * * * *

*Allocation* means the division of the beet sugar allotment among the sugar beet processors in the United States and the division of each State's cane sugar allotment among the State's sugarcane processors.

* * * * *

[FR Doc. E9–30019 Filed 12–15–09; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 151

### Recognition of Breeds and Books of Record of Purebred Animals

*CFR Correction*

In Title 9 of the Code of Federal Regulations, Parts 1 to 199, revised as of January 1, 2009, on page 961, in § 151.1, remove the paragraph designation from the definition of ''The Act'' and place the definition in alphabetical order; and on page 970, remove the sectional authority citation at the end of § 151.9.

[FR Doc. E9–30036 Filed 12–15–09; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 23

**[Docket No. CE304; Special Conditions No. 23–244–SC]**

### Special Conditions: Embraer (Empresa Brasileira de Aeronautica S.A.), Model EMB–505; Automatic Inhibition of Ice Protection System

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

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

**SUMMARY:** These special conditions are issued for the Embraer model EMB–505 airplane. This airplane will have a novel or unusual design feature(s) associated with operation of the airframe ice protection system. 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:** The effective date of these special conditions is December 8, 2009. We must receive your comments by January 15, 2010.

**ADDRESSES:** You must mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE–7, Attn: Rules Docket No. CE304, 901 Locust, Kansas City, MO 64106. You may deliver two copies to the Regional Counsel at the above address. You must mark your comments: Docket No. CE304. 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:** Paul Pellicano, Standards Staff, ACE–111, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Kansas City, MO 64106; telephone (404) 474–5558; facsimile (816) 329–4090.

**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, although the substance of these special conditions has not been subject to the public comment process in prior instances, the FAA anticipates no adverse comments will be 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 about 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 by 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 9, 2006, Embraer applied for a type certificate for their new model EMB–505. The EMB–505, is a 9 seat, pressurized, retractable-gear, twin turbofan-powered aircraft. It will be certified in the commuter category with a takeoff gross weight of 17,968 pounds. The Embraer model 505 will be certified for flight in icing conditions and uses engine bleed air to provide ice protection for the wings and empennage. It will have an altitude capability of 45,000 feet.

The ice protection system is designed to inhibit operation at altitudes above 30,000 feet or at high ambient temperatures (for example, above +8 °C at altitudes up to 12,000 feet), even if there are ice accretions on the airframe. If the pilot selects the airframe ice protection on in these conditions, the airframe ice protection system operation will be inhibited and an annunciation will be provided to the pilot. The proposed procedure is to exit icing conditions. There is no means for the pilot to override the system and select the airframe ''anti-ice on'' in these conditions. Icing conditions can exist at altitudes where the model 505 wing and empennage ice protection system is inhibited. It must be shown that the Embraer model 505 airplane can operate safely in icing conditions at altitudes above 30,000 feet, or approval for flight in icing must be restricted to operations below that altitude. Since the certification icing standards defined in Appendix C of part 25 do not define icing conditions above 30,000 feet, icing conditions standards above 30,000 feet and the standards to show safe operation must be defined.

Although the intent of § 23.1419 is for the airplane to safely operate in icing conditions, the regulation only requires that ''* * * the airplane must be able to safely operate in the continuous maximum and intermittent maximum icing conditions of part 25, Appendix C.'' 14 CFR part 25, Appendix C lists atmospheric icing conditions for a maximum of 30,000 feet. However, icing conditions can exist above this altitude. For example, FAA technical report ADS–4, figure 1–21 includes three reported icing encounters above 30,000 feet. These examples include a severe icing encounter at 37,000 feet and a light icing encounter at 39,000 feet. These data were solicited from operators because the data that forms the basis of part 25, Appendix C were obtained with aircraft with an operational ceiling of 22,000 feet. FAA technical report ADS–4 concludes that icing above 30,000 is infrequent and not likely to be severe, and airplanes with ice protection systems designed to part 25, Appendix C ''will probably have no difficulties when icing is encountered at high altitudes.'' However, this assumes the ice protection system is available.

The system inhibit at high outside air temperature is not an issue since ice accretion is not expected at these temperatures. Section 23.1309 is adequate to assure adequate system reliability, in other words, the system will not be inhibited in conditions in which it is required.

**Type Certification Basis**

Under the provisions of 14 CFR 21.17, Embraer must show that the model EMB–505 meets the applicable provisions of part 23, as amended by Amendments 23–1 through 23–55 thereto, and the special conditions adopted by this rulemaking action.

In addition, the certification basis includes certain ''exemptions, equivalent level of safety findings, and special conditions that are not relevant to the special conditions adopted by this rulemaking action.''

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the model EMB–505 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 EMB–505 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 and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.17(a)(2).

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 feature, the special conditions would also apply to the other model.

**Novel or Unusual Design Features**

The model EMB–505 will incorporate the following novel or unusual design features: Due to the potential to overtemp the engines, the ice protection system is designed to inhibit operation at altitudes above 30,000 feet or at high ambient temperatures (for example, above +8 °C at altitudes up to 12,000 feet with both bleed systems operating), even if there are ice accretions on the airframe. If the pilot selects the WINGSTAB switch ON in these conditions, the airframe anti-ice valves will remain closed. The pilot will receive a caution CAS message ''A–I WINGSTB OFF'' making the pilot aware that the wing and horizontal stabilizer anti-ice system (WHSAIS) is not operational. The proposed procedure is to exit icing conditions. There is no means for the pilot to override the system and select the airframe ''anti-ice on'' in these conditions. Icing conditions can exist at altitudes where the model 505 wing and empennage ice protection system is inhibited. It must be shown that the Embraer model 505 airplane can operate safely in icing conditions at altitudes above 30,000 feet, or approval for flight in icing must be restricted to operations below that altitude. Special conditions are required to define the icing conditions above 30,000 feet and the standards to show safe operation above 30,000 feet after encountering icing conditions.

**Discussion**

The special conditions define the ice accretions that Embraer must consider. These ice accretions include a climb through continuous maximum conditions, plus an encounter above 30,000 feet with the ice protection system off through a continuous maximum cloud or intermittent maximum cloud. Safe operation must be shown with the critical encounter. The encounters are through standard cloud lengths defined in Appendix C at the critical altitude determined by Embraer. The liquid water content is defined at the coldest temperature defined for continuous maximum and intermittent maximum, respectively, in part 25, Appendix C. Although not defined in the special conditions, as is accomplished for icing certification, it is expected the median drop size will be chosen to provide the highest water catch on the wing leading edge.

The special conditions provide two options—prohibit flight in icing conditions above 30,000 feet, or have no restriction above 30,000 feet.

The first option allows Embraer to prohibit flight in icing above 30,000 feet. For this option, icing cues must be substantiated or an ice detector installed. The special condition requires an AFM limitation prohibiting flight in icing above 30,000 feet; however, a cockpit placard is also expected. Typically, there are no Subpart B requirements for airplanes with ice accretion if they are prohibited from flight in icing conditions. However, since the model EMB–505 is approved for flight in icing conditions for most of its operational envelope, it is necessary to have adequate stall warning if icing is inadvertently encountered above 30,000 feet. The requirement on stall warning must be the same as the requirement for pre-activation ice, as a minimum. The means of stall warning must be the same as for non-icing, and the margin must be adequate. This is shown by showing stalling or large roll excursion can be avoided if the pilot delays recovery one second after stall warning in a one-knot-per-second deceleration, wings level and turning flight. The recovery procedure assumes the pilot will attempt to minimize altitude loss.

The second option allows unrestricted flight in icing conditions above 30,000 feet. The requirements are the same as for flight in icing below 30,000 feet. The airplane must comply with Subpart B requirements with the defined ice accretions.

The special conditions prohibit automatic inhibition of engine ice protection and also address the issue of ice shedding into the engines. After accreting ice above inhibit altitudes, airframe ice protection will be activated once the airplane descends below the inhibit altitude. Past experience has shown all the accreted ice tends to shed at once for thermal ice protections systems. The special conditions for the engines are necessary since loss of thrust from both engines is classified as a hazard for the EMB–505 class of airplane.

**Applicability**

As discussed above, these special conditions are applicable to the model EMB–505. Should Embraer 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 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Embraer EMB–505 is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

**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 14 CFR 11.38 and 11.19.

**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 EMB–505 airplanes.

1. SC 23.1419:

Instead of compliance with § 23.1419, the Embraer EMB–505 must comply with the current version of § 23.1419 and the following additional paragraphs:

* * * * *

(e) If the wing or empennage anti-ice or de-icing systems are controlled in a manner that inhibit the system operation above certain altitudes automatically, with no means for the flight crew to override, the following applies:

(1) Flight in icing conditions will be restricted to altitudes below those where the system cannot be manually activated.

(i) Substantiated icing cues or an icing detector must be installed to allow exiting inadvertent icing encounters above the altitude where the system is automatically inhibited.

(ii) There must be a limitation in the Airplane Flight Manual stating that the airplane is not certificated for flight in icing at altitudes above the altitude in which system operation is automatically inhibited.

(iii) The stall warning must be provided by the same means as in non-icing conditions and must be shown to provide adequate margin to stall with the ice accretions defined in paragraphs (e)(2)(ii) and (e)(2)(iii).

As an alternate to complying with paragraph (e)(1), the provisions of paragraph (e)(2) apply:

(2) For certification without restrictions in icing conditions above

the system automatic shut off altitude, the airplane controllability, maneuverability, stability, stall characteristics and stall warning must not be less than required in part 23, Subpart B, with stall warning provided by the same means as in non-icing conditions, with the following ice accretions:

(i) The ice shape(s) that would be on the airplane after a climb through the critical icing conditions of 14 CFR part 25, Appendix C, Figure 1.

(ii) The critical ice shape(s) from paragraph (i) above, plus an exposure to one 17.4 nautical mile continuous maximum cloud at altitudes between the automatic shut off altitude feet and the maximum operating altitude with the ice protection system off. The ice shape(s) must be based on the liquid water content for the coldest temperature shown in 14 CFR part 25, Appendix C, Figure 1.

(iii) The critical ice shape(s) from paragraph (i) above plus an exposure to one 2.6 nautical mile intermittent maximum cloud at altitudes between 30,000 feet and the maximum operating altitude with the ice protection system off. The substantiation will assume the liquid water content for the coldest temperature shown in 14 CFR part 25, Appendix C, Figure 4.

The AFM must contain appropriate procedures for activating the airframe ice protection system at altitudes where the system can be activated, and for exiting icing conditions at altitudes where the system is inhibited.

(f) The engine anti-icing system must not be subject to the automatic shut off feature but must be operable at any altitude.

(g) It must be shown that engine operation is not affected by ice shedding from the inboard wing, with the ice accretions defined in paragraph (e)(2), after the airplane has descended below the inhibit altitude.

Issued in Kansas City, MO, on December 8, 2009.

**Margaret Kline,**

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

[FR Doc. E9–29847 Filed 12–15–09; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2009–0197; Airspace Docket No. 09–AAL–4]**

## Establishment of Class E Airspace; Clarks Point, AK

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

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Clarks Point, AK, to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs) at Clarks Point Airport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Clarks Point Airport.

**DATES:** Effective 0901 UTC, February 11, 2010. 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:** Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

**SUPPLEMENTARY INFORMATION:**

### History

On Wednesday, October 7, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to establish Class E airspace at Clarks Point, AK (74 FR 51524).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, 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 action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Clarks Point Airport, AK, to accommodate new RNAV SIAPs at Clarks Point Airport. This Class E airspace will provide adequate controlled airspace upward from 700 and 1,200 feet above the surface, for the safety and management of IFR operations at Clarks Point Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation, as the anticipated impact is so minimal. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Clarks Point Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows: