

under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**2006-16-16 Empresa Brasileira de Aeronautica S.A. (EMBRAER):**  
Amendment 39-14716. FAA-2006-24366; Directorate Identifier 2006-NM-040-AD.

#### Effective Date

(a) This AD becomes effective September 22, 2006.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to EMBRAER Model EMB-135BJ airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 145LEG-25-0060, Revision 01, dated March 3, 2006.

#### Unsafe Condition

(d) This AD results from a report indicating that certain airplanes were delivered with the fire blocking material missing and the seal improperly installed on the partitions of the forward baggage compartment door. We are issuing this AD to detect and correct such discrepancies on the forward baggage compartment partition, which, in the event of a fire in the baggage compartment, could result in smoke propagating into the main cabin.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Inspection and Corrective Actions

(f) Within 24 months after the effective date of this AD: Do a general visual inspection for missing fire blocking material

(an insulation blanket) on the left- and right-hand partitions of the forward baggage compartment door, replace the seal on both partitions with a new seal, and accomplish all applicable corrective actions, by doing all the actions specified in the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG-25-0060, Revision 01, dated March 3, 2006. All applicable corrective actions must be done before further flight.

**Note 1:** For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Acceptable for Compliance

(g) Accomplishment of the actions required by paragraph (f) of this AD before the effective date of this AD in accordance with EMBRAER Service Bulletin 145LEG-25-0060, dated November 18, 2005, is acceptable for compliance with the requirements of that paragraph.

#### Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

#### Related Information

(i) Brazilian airworthiness directive 2006-02-02, effective February 24, 2006, also addresses the subject of this AD.

#### Material Incorporated by Reference

(j) You must use EMBRAER Service Bulletin 145LEG-25-0060, Revision 01, dated March 3, 2006, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-

6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on August 3, 2006.

**Ali Bahrami,**

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

[FR Doc. E6-13449 Filed 8-17-06; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2006-25499; Airspace Docket No. 06-ASW-09]

#### Modification of Class D Airspace, Modification to Class E; Clovis, NM

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action modifies the Class D and the Class E airspace areas at Cannon AFB, Clovis, NM, to provide controlled airspace for Category (CAT) E aircraft performing a circling approach within Class D and Class E Airspace.

**DATES:** Effective 0901 UTC, November 23, 2006.

Comments for inclusion in the Rules Docket must be received on or before October 23, 2006.

**ADDRESSES:** Send comments on the rule to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number, FAA-2006-25499/Airspace Docket No. 06-ASW-09, at the beginning of your comments. You may also submit comments on the Internet at the DOT docket Web site, <http://dms.dot.gov> or the government-wide Web site, <http://regulations.gov>. Anyone can find and read the comments received in this docket, including the name, address and any other personal information placed in the docket by a commenter. You may hand-deliver your comments and review the public docket containing any comments received and this Direct Final Rule in person at the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated previously.

An informal docket may also be examined during normal business hours at the office of the Central Service Area,

System Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX. Call the group manager, System Support Group, AJO-2C2, telephone (817) 222-5530; fax (817) 222-5981, to make arrangements for your visit.

**FOR FURTHER INFORMATION CONTACT:**

Joseph R. Yadouga, Central, Service Area, System Support Group, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone: (817) 222-5597.

**SUPPLEMENTARY INFORMATION:** This amendment to 14 CFR part 71 establishes a Class D airspace designation for an airspace area from the surface up to but not including 6,800 feet MSL at Cannon AFB, Clovis, NM, and will be published in paragraph 5000 of FAA Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1.

This amendment to 14 CFR part 71 also modifies the Class E airspace area extending upward from the surface at Cannon AFB, Clovis, NM, and will be published in paragraph 6000 of FAA Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1.

**The Direct Final Rule Procedure**

The FAA anticipates that this regulation will not result in an adverse or negative comment, and, therefore, issues it as a direct final rule. 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. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

**Comments Invited**

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications must identify both docket numbers. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

**Agency Findings**

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with State authorities prior to publication of this rule.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. I certify 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.

**Authority for This Rulemaking**

The FAA authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code, Subtitle I, 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 4013, "Sovereignty and use of airspace." Under that section, the FAA is charged with developing plans and policy for use of the navigable airspace and assigning by regulation or order the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The FAA may modify or revoke an assignment when required in the public interest. This regulation is within the scope of that authority because it is in the public interest to provide greater control of the airspace for the safety of aircraft operating in the vicinity of the newly established airport traffic control tower.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, is amended as follows:

*Paragraph 5000 Class D Airspace Areas Extending Upward From the Surface of the Earth*

\* \* \* \* \*

**ASW NM D Clovis, NM [Revised]**

Cannon AFB, NM

Lat. 34°22'58" N, Long. 103°19'20" W

That airspace extending upward from the surface to and including 6,800 feet MSL within a 6-mile radius Cannon AFB. The Class D airspace area is effective during the

specific dates and times established in advance by the Notice to Airmen. The effective time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6000 Class E Airspace Areas Extending Upward From the Surface of the Earth*

\* \* \* \* \*

**ASW NME Clovis, NM [Revised]**

Cannon AFB, NM

Lat. 34° 22'58" N, Long. 103°19'20" W

Cannon ILS Localizer

Lat. 34°22'25" N, Long. 103°20'09" W

Cannon TACAN

Lat. 34°22'51" N, Long. 103°19'21" W

That airspace extending upward from the surface within a 6-mile radius of Cannon AFB. The Class E airspace area is effective during the specific dates and times established in advance by the Notice to Airmen. The effective time will thereafter be continuous published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in Fort Worth, TX, on August 1, 2006.

**Donald R. Smith,**

*System Support Group Manager, Central Service Area.*

[FR Doc. 06-6910 Filed 8-17-06; 8:45am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 172

[Docket No. 2002F-0316 (formerly 02F-0316)]

#### Food Additives Permitted for Direct Addition to Food for Human Consumption; Bacteriophage Preparation

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a bacteriophage preparation on ready-to-eat meat and poultry products as an antimicrobial agent against *Listeria monocytogenes*. This action is in response to a petition filed by Intralytix, Inc.

**DATES:** This rule is effective August 18, 2006. Submit written or electronic objections and requests for a hearing by September 18, 2006. See section VII of this document for information on the filing of objections. The Director of the Office of the Federal Register approves the incorporation by reference in

accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in new 21 CFR 172.785 as of August 18, 2006.

**ADDRESSES:** You may submit objections and requests for a hearing, identified by Docket No. 2002F-0316 (formerly 02F-0316), by any of the following methods: *Electronic Submissions*

Submit electronic objections in the following ways:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Agency Web site: <http://www.fda.gov/dockets/ecomments>.

Follow the instructions for submitting comments on the agency Web site.

*Written Submissions*

Submit written objections in the following ways:

- FAX: 301-827-6870.

- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of objections, FDA is no longer accepting objections submitted to the agency by e-mail. FDA encourages you to continue to submit electronic objections by using the Federal eRulemaking Portal or the agency Web site, as described in the *Electronic Submissions* portion of this paragraph.

*Instructions:* All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All objections received will be posted without change to <http://www.fda.gov/ohrms/dockets/default.htm>, including any personal information provided. For detailed instructions on submitting objections, see the "Objections" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or objections received, go to <http://www.fda.gov/ohrms/dockets/default.htm> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Raphael A. Davy, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-1272.

## SUPPLEMENTARY INFORMATION:

### I. Background

In a notice published in the **Federal Register** of July 22, 2002 (67 FR 47823), FDA announced that a food additive petition (FAP 2A4738) had been filed by Intralytix, Inc., c/o Lewis & Harrison, 122 C St. NW., suite 740, Washington, DC 20001, now represented by Keller & Heckman LLP, 1001 G St., NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations to provide for the safe use of a mixture of bacteriophages<sup>1</sup> (phages) as an antimicrobial agent against *Listeria monocytogenes* (*L. monocytogenes*) on foods, including fresh meat, meat products, fresh poultry, and poultry products. On December 18, 2003, the petitioner amended the petition to limit the petitioned use to ready-to-eat (RTE) meat and poultry products only.<sup>2</sup>

The food additive consists of a mixture of equal proportions of six individually purified phages. The petitioner's rationale for incorporating multiple phages in one formulation is to minimize the possibility of *L. monocytogenes* developing a resistance to the additive. Each phage in the additive is specific against various *L. monocytogenes* strains, including those strains known to be associated with foodborne illness (e.g., *L. monocytogenes* strains, serotypes 1/2a, 4b and 1/2b). The phages are lytic<sup>3</sup> double-stranded DNA phages. The petitioner has characterized each phage with respect to physical properties and other appropriate identifying factors (e.g., host range, structural protein profile, and DNA sequence of complete genome<sup>4</sup>).

In the manufacturing process, each phage contained in the additive is separately produced using a strain of *L. monocytogenes* that can serve as a host to the specific phage. The host *L. monocytogenes* strain is first cultured in microbiological media and the specific phage is added to the culture when a specified cell density is achieved. After phage multiplication, which results in lysis (destruction) of host cells, the phage is purified by use of multiple filtration steps (to remove bacteria and their components). The six phages produced by this process are then

<sup>1</sup> Bacteriophages are viruses that infect bacteria only.

<sup>2</sup> Ready-to-eat products, as used in this final rule, are defined in 9 CFR 430.1.

<sup>3</sup> Lytic bacteriophages lyse (destroy) their host bacteria as a normal part of their life cycle without integrating into the host genome.

<sup>4</sup> Genome means the genetic content of a cell or virus.