Rules and Regulations

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

Alternative Fuel Transportation Program; Emergency Exemption

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

ACTION: Notice of availability of ''Documentation Guidelines for Emergency Repair and Restoration Vehicle Exclusions.''

SUMMARY: This notice announces the availability of a Department of Energy (DOE) document that provides guidelines to fleets covered under 10 CFR part 490 for submission of documentation for exclusion of vehicles directly used in the emergency repair or restoration of electricity service following power outages.

ADDRESSES: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of FreedomCAR and Vehicle Technologies, EE–2G, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

The entire document with complete instructions for interested parties, ''Documentation Guidelines for Emergency Repair and Restoration Vehicle Exclusions,'' may be found at the Web site address *http://www.eere.energy.gov/vehiclesandfuels/epact/state/state_resources.shtml.*

FOR FURTHER INFORMATION CONTACT: Linda Bluestein on (202) 586–6116 or *linda.bluestein@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 707 of the Energy Policy Act of 2005 (Pub. L. 109–58) amended the list of excluded vehicles in section 301(9) of the Energy Policy Act of 1992 (Pub. L. 102–486, 42 U.S.C. 13211(9)) to add a new category of vehicles. Excluded vehicles are not counted when determining if an entity is covered and also are not counted when determining a covered entity's annual alternative fueled vehicle acquisition requirements. The vehicles excluded by this amendment are ''* * * vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages * * *.''

Written requests for exclusion will be evaluated by DOE and considered on a case-by-case basis. Under this process, the requesting entity must justify that its vehicles are used directly in repair/restoration activities. DOE's review is expected to take no more than 45 days from the time sufficient information is provided to make a decision. Based upon DOE's decision, the requesting party will know how many vehicles it can then exclude (subtract) from its covered light-duty vehicle count, which is used to calculate its annual requirements.

Issued in Washington, DC, on November 17, 2005.

Douglas L. Faulkner,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 05–23175 Filed 11–22–05; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 106

RIN 3245–AF37

Cosponsorships, Fee and Non-Fee Based SBA-Sponsored Activities, and Gifts

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Reauthorization and Manufacturing Assistance Act of 2004 requires the U.S. Small Business Administration (SBA or Agency) to promulgate regulations to carry out the Agency's statutory authority to provide assistance for the benefit of small business through activities sponsored with outside entities (for-profit and not-for-profit entities and Federal, state and local government officials or entities) as well as activities solely sponsored by SBA. This final rule implements that authority and sets forth minimum requirements for these activities as well as the Agency's solicitation and acceptance of gifts.

DATES: This rule is effective on November 23, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Gangwere, Deputy General Counsel, (202) 205–6642.

SUPPLEMENTARY INFORMATION:

A. Background

On July 11, 2005, SBA published a proposed rule in the **Federal Register,** 70 FR 39667, to solicit comments on its proposal to promulgate regulations required by the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (reauthorization Act), signed into law on December 8, 2004. Pub. L. 108–447, Division K, 118 Stat. 2809–644 (2004). The statute reauthorized SBA's cosponsorship authority, provided SBA with authority to conduct and charge fees for certain SBA-sponsored activities (Fee Based SBA-Sponsored Activities), and expanded SBA's authority to use certain gift funds for marketing and outreach activities. The statute also made significant changes to the approval process for outreach activities and gift acceptance. With this new authority added to its continuing authority under section 8(b)(1)(a) of the Small Business Act, the Agency has three major vehicles by which it may provide information, training, and/or conduct marketing and outreach for the benefit of or to small businesses: Cosponsored Activities, Fee Based SBA-Sponsored Activities, and Non-Fee Based SBA-Sponsored Activities.

To facilitate these activities and to implement the recent statutory changes, SBA proposed adding part 106 to title 13 of the Code of Federal Regulations. The proposed regulations defined each of these vehicles and set forth the minimum requirements applicable to each. In addition, the proposed regulations set forth minimum requirements and the conflict of interest authority for solicitation and acceptance of gifts under certain Agency gift authorities.

B. Discussion of Comments

These rules were published as proposed rules on July 11, 2005 in the **Federal Register,** (70 FR 39667–39672). Comments were solicited in that

publication and could be submitted by mail, electronic means, or hand delivery/courier.

No comments were received by e-mail, facsimile, TDD, mail or courier. However, in reviewing the proposed regulations, the Agency noted a redundancy in Paragraphs (d)(1) and (d)(2) of Sections 106.302 and 106.402. In the final regulations, Paragraph (d)(1) of each of the proposed sections, which stated, ''SBA will not unnecessarily promote a Donor, or the Donor's products or services'' will be deleted. Paragraphs (d)(2) and (d)(3) of each proposed Section will be renumbered (d)(1) and (d)(2) respectively in the final regulations. Therefore, we are publishing the final rule with these minor technical changes.

C. Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

This regulation will not have substantial direct effects 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. Therefore, for the purposes of Executive Order 13132, SBA determines that this final rule has no federalism implications warranting preparation of a federalism assessment.

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866.

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, small non-profit enterprises, and small local governments. Pursuant to the RFA, when an agency issues a rulemaking, the agency must prepare a regulatory flexibility analysis which describes the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. In this case, the final regulations address the administrative requirements for Agency management of SBA outreach programs. In other words, this final rule will not result in the direct regulation of small entities, so no further analysis is required by the RFA. Therefore, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of RFA.

List of Subjects in 13 CFR Part 106

Administrative practice and procedure, Authority delegations (Government agencies), Conflict of interests, Small businesses, Intergovernmental relations.

■ For the reasons stated in the preamble, SBA adds 13 CFR part 106, as follows:

PART 106—COSPONSORSHIPS, FEE AND NON-FEE BASED SBA-SPONSORED ACTIVITIES AND GIFTS

Subpart A—Scope and Definitions

Sec.

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Subpart C—Fee Based SBA-Sponsored Activities

106.300 Fee Based SBA-Sponsored Activity.
106.301 What are the minimum requirements applicable to Fee Based SBA-Sponsored Activities?
106.302 What provisions must be set forth in a Fee Based Record?
106.303 Who has the authority to approve and sign a Fee Based Record?

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106.400 Non-Fee Based SBA-Sponsored Activity.
106.401 What are the minimum requirements applicable to a Non-Fee Based SBA-Sponsored Activity?
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106.403 Who has the authority to approve and sign a Non-Fee Based Record?

Subpart E—Gifts

106.500 What is SBA's Gift authority?
106.501 What minimum requirements are applicable to SBA's solicitation and/or acceptance of Gifts?
106.502 Who has authority to perform a Gift conflict of interest determination?
106.503 Are there types of Gifts which SBA may not solicit and/or accept?

Authority: 15 U.S.C. 633 (g) and (h); 15 U.S.C. 637(b)(1)(A); 15 U.S.C. 637(b)(G).

Subpart A—Scope and Definitions

§ 106.100 Scope.

The regulations in this part apply to SBA-provided assistance for the benefit of small business through Fee Based SBA-Sponsored Activities or through Cosponsored Activities with Eligible Entities authorized under section 4(h) of the Small Business Act, and to SBA assistance provided directly to small business concerns through Non-Fee Based SBA-Sponsored Activities authorized under section 8(b)(1)(A) of the Small Business Act. The regulations in this part also apply to SBA's solicitation and acceptance of Gifts under certain sections (sections 4(g), 8(b)(1)(G), 5(b)(9) and 7(k)(2)) of the Small Business Act (15 U.S.C. 631 *et seq.*), including Gifts of cash, property, services and subsistence. Under section 4(g) of the Small Business Act, Gifts may be solicited and accepted for marketing and outreach purposes including the cost of promotional items and wearing apparel.

§ 106.101 Definitions.

The following definitions apply to this part. Defined terms are capitalized wherever they appear.

(a) *Cosponsor* means an entity or individual designated in § 106.201 that has signed a written Cosponsorship Agreement with SBA and who actively and substantially participates in planning and conducting an agreed upon Cosponsored Activity.

(b) *Cosponsored Activity* means an activity, event, project or initiative, designed to provide assistance for the benefit of small business as authorized by section 4(h) of the Small Business Act, which has been set forth in an approved written Cosponsorship Agreement. The Cosponsored Activity must be planned and conducted by SBA and one or more Cosponsors. Assistance for purposes of Cosponsored Activity does not include grant or any other form of financial assistance. A Participant Fee may be charged by SBA or another Cosponsor at any Cosponsored Activity.

(c) *Cosponsorship Agreement* means an approved written document (as outlined in §§ 106.203 and 106.204 which has been duly executed by SBA and one or more Cosponsors. The Cosponsorship Agreement shall contain the parties' respective rights, duties and responsibilities regarding implementation of the Cosponsored Activity.

(d) *Donor* means an individual or entity that provides a Gift, bequest or devise (in cash or in-kind) to SBA.

(e) An *Eligible Entity* is a potential Cosponsor. An Eligible Entity must be a for-profit or not-for-profit entity, or a Federal, State or local government official or entity.

(f) *Fee Based SBA-Sponsored Activity Record* (Fee Based Record) means a written document, as outlined in § 106.302, describing a Fee Based SBA-Sponsored Activity and approved in writing pursuant to § 106.303.

(g) *Fee Based SBA-Sponsored Activity* means an activity, event, project or initiative designed to provide assistance for the benefit of small business, as authorized by section 4(h) of the Small Business Act, at which SBA may charge a Participant Fee. Assistance for purposes of Fee Based SBA-Sponsored Activity does not include grant or any other form of financial assistance. A Fee Based SBA-Sponsored Activity must be planned, conducted, controlled and sponsored solely by SBA.

(h) *Gift* (including a bequest or a device) is the voluntary transfer to SBA of something of value without the Donor receiving legal consideration.

(i) *Non-Fee Based SBA-Sponsored Activity Record* (Non-Fee Based Record) means a written document describing a Non-Fee Based SBA-Sponsored Activity which has been approved pursuant to § 106.403.

(j) *Non-Fee Based SBA-Sponsored Activity* means an activity, event, project or initiative designed to provide assistance directly to small business concerns as authorized by section 8(b)(1)(A) of the Small Business Act. Assistance for purposes of a Non-Fee Based SBA-Sponsored Activity does not include grant or any other form of financial assistance. A Non-Fee Based SBA-Sponsored Activity must be planned, conducted, controlled and sponsored solely by SBA. No fees including Participant Fees may be charged for a Non-Fee Based SBA-Sponsored Activity.

(k) *Participant Fee* means a minimal fee assessed against a person or entity that participates in a Cosponsored Activity or Fee Based SBA-Sponsored Activity and is used to cover the direct costs of such activity.

(l) *Responsible Program Official* is an SBA senior management official from the originating office who is accountable for the solicitation and/or acceptance of a Gift to the SBA; a Cosponsored Activity; a Fee Based SBA-Sponsored Activity; or a Non-Fee Based SBA-Sponsored Activity. If the originating office is a district or branch office, the Responsible Program Official is the district director or their deputy. In headquarters, the Responsible Program Official is the management board member or their deputy with responsibility for the relevant program area.

Subpart B—Cosponsored Activities

§ 106.200 Cosponsored Activity.

The Administrator (or designee), after consultation with the General Counsel (or designee), may provide assistance for the benefit of small business through Cosponsored Activities pursuant to section 4(h) of the Small Business Act.

§ 106.201 Who may be a Cosponsor?

(a) Except as specified in paragraph (b) of this section, SBA may enter into a Cosponsorship Agreement with an Eligible Entity as defined in § 106.101(e).

(b) SBA may not enter into a Cosponsorship Agreement with an Eligible Entity if the Administrator (or designee), after consultation with the General Counsel (or designee), determines that such agreement would create a conflict of interest.

§ 106.202 What are the minimum requirements applicable to Cosponsored Activities?

While SBA may subject a Cosponsored Activity to additional requirements through internal policy, procedure and the Cosponsorship Agreement, the following requirements apply to all Cosponsored Activities:

(a) Cosponsored Activities must be set forth in a written Cosponsorship Agreement signed by the Administrator (or designee) and each Cosponsor;

(b) Appropriate recognition must be given to SBA and each Cosponsor but shall not constitute or imply an endorsement by SBA of any Cosponsor or any Cosponsor's products or services;

(c) Any printed or electronically generated material used to publicize or conduct the Cosponsored Activity, including any material which has been developed, prepared or acquired by a Cosponsor, must be approved in advance by the Responsible Program Official and must include a prominent disclaimer stating that the Cosponsored Activity does not constitute or imply an endorsement by SBA of any Cosponsor or the Cosponsor's products or services;

(d) No Cosponsor shall make a profit on any Cosponsored Activity. SBA grantees who earn program income on Cosponsored Activities must use that program income for the Cosponsored Activity;

(e) Participant Fee(s) charged for a Cosponsored Activity may not exceed the minimal amount needed to cover the anticipated direct costs of the Cosponsored Activity and must be liquidated prior to other sources of funding for the Cosponsored Activity. If SBA charges a Participant Fee, the collection of the Participant Fees is subject to internal SBA policies and procedures as well as applicable U.S. Treasury rules and guidelines;

(f) SBA may not provide a Cosponsor with lists of names and addresses of small business concerns compiled by SBA which are otherwise protected by law or policy from disclosure; and

(g) Written approval must be obtained as outlined in § 106.204.

§ 106.203 What provisions must be set forth in a Cosponsorship Agreement?

While SBA may require additional provisions in the Cosponsorship Agreement through internal policy and procedure, the following provisions must be in all Cosponsorship Agreements:

(a) A written statement agreed to by each Cosponsor that they will abide by all of the provisions of the Cosponsorship Agreement, the requirements of this subpart as well the applicable definitions in § 106.100;

(b) A narrative description of the Cosponsored Activity;

(c) A listing of SBA's and each Cosponsor's rights, duties and responsibilities with regard to the Cosponsored Activity;

(d) A proposed budget demonstrating:

(1) The type and source of financial contribution(s) (including but not limited to cash, in-kind, Gifts, and Participant Fees) that the SBA and each Cosponsor will make to the Cosponsored Activity; and

(2) A reasonable estimation of all anticipated expenses;

(e) A written statement that each Cosponsor agrees that they will not make a profit on the Cosponsored Activity; and

(f) A written statement that Participant Fees, if charged, will not exceed the minimal amount needed to cover the anticipated direct costs of the Cosponsored Activity as outlined in the budget and will be liquidated prior to other sources of funding for the Cosponsored Activity.

§ 106.204 Who has the authority to approve and sign a Cosponsorship Agreement?

The Administrator, or upon his/her written delegation, the Deputy Administrator, an associate or assistant administrator, after consultation with the General Counsel (or designee), has the authority to approve each Cosponsored Activity and sign each

Cosponsorship Agreement. This authority cannot be re-delegated.

Subpart C—Fee Based SBA-Sponsored Activities

§ 106.300 Fee Based SBA-Sponsored Activity.

The Administrator (or designee), after consultation with the General Counsel (or designee), may provide assistance for the benefit of small business through Fee-Based SBA-Sponsored Activities pursuant to section 4(h) of the Small Business Act.

§ 106.301 What are the minimum requirements applicable to Fee Based SBA-Sponsored Activities?

While SBA may subject a Fee Based SBA-Sponsored Activity to additional requirements through internal policy and procedure, the following requirements apply to all Fee Based SBA-Sponsored Activities:

(a) A Fee Based Record must be prepared by the Responsible Program Official in advance of the activity;

(b) Any Participant Fees charged will not exceed the minimal amount needed to cover the anticipated direct costs of the activity;

(c) Gifts of cash accepted and the collection of Participant Fees for Fee Based SBA-Sponsored Activities are subject to the applicable requirements in this part, internal SBA policies and procedures as well as applicable U.S. Treasury rules and guidelines; and

(d) Written approval must be obtained as outlined in § 106.303.

§ 106.302 What provisions must be set forth in a Fee Based Record?

A Fee Based Record must contain the following:

(a) A narrative description of the Fee Based SBA-Sponsored Activity;

(b) A certification by the Responsible Program Official that he or she will abide by the requirements contained in this part, as well as all other applicable statutes, regulations, policies and procedures for Fee Based SBA-Sponsored Activities;

(c) A proposed budget demonstrating:

(1) All sources of funding, including annual appropriations, Participant Fees and Gifts, to be used in support of the Fee Based SBA-Sponsored Activity;

(2) A reasonable estimation of all anticipated expenses, which indicates that no profit is anticipated from the Fee Based SBA-Sponsored Activity; and

(3) A provision stating that Participant Fees, if charged, will not exceed the minimal amount needed to cover the anticipated direct costs of the Fee Based SBA-Sponsored Activity as outlined in the budget;

(d) With regard to any donations made in support of the Fee Based SBA-Sponsored Activity, the Fee Based Record will reflect the following:

(1) Each Donor may receive appropriate recognition for its Gift; and

(2) Any printed or electronically generated material recognizing a Donor will include a prominent disclaimer stating that the acceptance of the Gift does not constitute or imply an endorsement by SBA of the Donor or the Donor's products or services.

§ 106.303 Who has authority to approve and sign a Fee Based Record?

The Administrator, or upon his/her written delegation, the Deputy Administrator, an associate or assistant administrator, after consultation with the General Counsel (or designee), has the authority to approve and sign each Fee Based Record. This authority may not be re-delegated.

Subpart D—Non-Fee Based SBA-Sponsored Activities

§ 106.400 Non-Fee Based SBA-Sponsored Activity.

The Administrator (or designee) may provide assistance directly to small business concerns through Non-Fee Based SBA-Sponsored Activities under section 8(b)(1)(A) of the Small Business Act.

§ 106.401 What are the minimum requirements applicable to a Non-Fee Based SBA-Sponsored Activities?

While SBA may subject Non-Fee Based SBA-Sponsored Activities to additional requirements through internal policy and procedure, the following requirements apply to all Non-Fee Based SBA-Sponsored Activity:

(a) A Non-Fee Based Record must be prepared and approved by the Responsible Program Official in advance of the activity;

(b) Gifts of cash accepted for Non-Fee Based SBA-Sponsored Activities are subject to § 106.500, internal SBA policies and procedures as well as applicable U.S. Treasury rules and guidelines; and

(c) Written approval must be obtained as outlined in § 106.403.

§ 106.402 What provisions must be set forth in a Non-Fee Based Record?

A Non-Fee Based Record must contain the following:

(a) A narrative description of the Non-Fee Based SBA-Sponsored Activity;

(b) A certification by the Responsible Program Official that he or she will abide by the requirements contained in this part, as well as all other applicable statutes, regulations, policies and procedures for Non-Fee Based SBA-Sponsored Activities;

(c) If applicable, a list of Donors supporting the activity; and

(d) With regard to any donations made in support of a Non-Fee Based SBA-Sponsored Activity, the Non-Fee Based Record will reflect the following:

(1) Each Donor may receive appropriate recognition for its Gift; and

(2) Any printed or electronically generated material recognizing a Donor will include a prominent disclaimer stating that the acceptance of the Gift does not constitute or imply an endorsement by SBA of the Donor, or the Donor's products or services.

§ 106.403 Who has authority to approve and sign a Non-Fee Based Record?

The appropriate Responsible Program Official, after consultation with the designated legal counsel, has authority to approve and sign each Non-Fee Based Record.

Subpart E—Gifts

§ 106.500 What is SBA's Gift authority?

This section covers SBA's Gift acceptance authority under sections 4(g), 8(b)(1)(G), 5(b)(9) and 7(k)(2) of the Small Business Act.

§ 106.501 What minimum requirements are applicable to SBA's solicitation and/or acceptance of Gifts?

While SBA may subject the solicitation and/or acceptance of Gifts to additional requirements through internal policy and procedure, the following requirements must apply to all Gift solicitations and/or acceptances under the authority of the Small Business Act sections cited in § 106.500:

(a) SBA is required to use the Gift (whether cash or in-kind) in a manner consistent with the original purpose of the Gift;

(b) There must be written documentation of each Gift solicitation and/or acceptance signed by an authorized SBA official;

(c) Any Gift solicited and/or accepted must undergo a determination, prior to solicitation of the Gift or prior to acceptance of the Gift if unsolicited, of whether a conflict of interest exists between the Donor and SBA; and

(d) All cash Gifts donated to SBA under the authority cited in § 106.500 must be deposited in an SBA trust account at the U.S. Department of the Treasury.

§ 106.502 Who has authority to perform a Gift conflict of interest determination?

(a) For Gifts solicited and/or accepted under sections 4(g), 8(b)(1)(G), and

7(k)(2) of the Small Business Act, the General Counsel, or designee, must make the final conflict of interest determination. No Gift shall be solicited and/or accepted under these sections of the Small Business Act if such solicitation and/or acceptance would, in the determination of the General Counsel (or designee), create a conflict of interest.

(b) For Gifts of services and facilities solicited and/or accepted under section 5(b)(9), the conflict of interest determination may be made by designated disaster legal counsel.

§ 106.503 Are there types of Gifts which SBA may not solicit and/or accept?

Yes. SBA shall not solicit and/or accept Gifts of or for (or use cash Gifts to purchase or engage in) the following:

(a) Alcohol products;

(b) Tobacco products;

(c) Pornographic or sexually explicit objects or services;

(d) Gambling (including raffles and lotteries);

(e) Parties primarily for the benefit of Government employees; and

(f) Any other product or service prohibited by law or policy.

Dated: November 16, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–23126 Filed 11–22–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20011; Directorate Identifier 2003–NM–22–AD; Amendment 39–14382; AD 2005–24–02]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 Airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain EMBRAER Model EMB–135 airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. That AD currently requires revising the airplane flight manual (AFM) to prohibit in-flight auxiliary power unit (APU) starts, and installing a placard on or near the APU start/stop switch panel to provide such instructions to the flightcrew. This new AD adds an optional revision to the AFM that allows limited APU starts and adds a terminating action. This AD results from the airplane manufacturer developing modifications that revise or eliminate the need for restrictions to in-flight APU starts. We are issuing this AD to prevent flame backflow into the APU compartment through the eductor during in-flight APU starts, which could result in fire in the APU compartment.

DATES: This AD becomes effective December 28, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of December 28, 2005.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC.

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2001–10–01, amendment 39–12226 (66 FR 24049, May 11, 2001), for certain EMBRAER Model EMB–135 and EMB–145 series airplanes. That NPRM was published in the **Federal Register** on January 12, 2005 (70 FR 2057). That NPRM proposed to continue to require revising the airplane flight manual (AFM) to prohibit in-flight auxiliary power unit (APU) starts, and installing a placard on or near the APU start/stop switch panel to provide such instructions to the flightcrew. That NPRM also proposed an optional revision to the AFM that allows limited APU starts and a terminating action.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM.

Request To Revise Applicability to Refer to Model T–62T–40C14 as APS 500R

One commenter requests that the applicability be revised to refer to Model T–62T–40C14 as APS 500R. The commenter states that the commercial model designation for APU model T–62T–40C14 is APS 500R. The ''S'' in APS 500R is not a typographical error, as stated in the NPRM, and is the correct nomenclature.

We agree with the commenter and have revised the applicability of the final rule. This revision does not change the number of airplanes affected by the final rule.

Request To Revise Description of Part Number (P/N) 120–45060–001

One commenter requests that the description of P/N 120–45060–001 in the second paragraph of the ''Relevant Service Information'' section of the NPRM be revised. The commenter states that ''flush-type APU air inlet'' should be revised to ''flush-type air inlet frame.''

We agree with the commenter that the part is a flush-type air inlet frame and we have revised paragraph (g) of the final rule to specify installing a ''flush-type APU air inlet frame.'' We have not revised the ''Relevant Service Information'' section, as that section is not restated in the final rule.

Request To Refer to Latest Revision of EMBRAER Service Bulletin 145–49–0018

Two commenters request that the NPRM refer to the latest revision of EMBRAER Service Bulletin 145–49–0018. One commenter states that EMBRAER Service Bulletin 145–49–0018, Change 03, dated January 3, 2002 (referenced as the appropriate source of service information for accomplishing the actions specified in paragraph (h) of the NPRM) should be replaced with Change 04, dated November 26, 2002. The other commenter states that