

805 related to nuclear safety and radiological release;

(B) Maintains safety margins; and

(C) Maintains fire protection defense-in-depth (fire prevention, fire detection, fire suppression, mitigation, and post-fire safe shutdown capability).

(3) *Compliance with NFPA 805.*

(i) A licensee may maintain a fire protection program that complies with NFPA 805 as an alternative to complying with paragraph (b) of this section for plants licensed to operate before January 1, 1979, or the fire protection license conditions for plants licensed to operate after January 1, 1979. The licensee shall submit a request to comply with NFPA 805 in the form of an application for license amendment under § 50.90. The application must identify any orders and license conditions that must be revised or superseded, and contain any necessary revisions to the plant's technical specifications and the bases thereof. The Director of the Office of Nuclear Reactor Regulation, or a designee of the Director, may approve the application if the Director or designee determines that the licensee has identified orders, license conditions, and the technical specifications that must be revised or superseded, and that any necessary revisions are adequate. Any approval by the Director or the designee must be in the form of a license amendment approving the use of NFPA 805 together with any necessary revisions to the technical specifications.

(ii) The licensee shall complete its implementation of the methodology in Chapter 2 of NFPA 805 (including all required evaluations and analyses) and, upon completion, modify the fire protection plan required by paragraph (a) of this section to reflect the licensee's decision to comply with NFPA 805, before changing its fire protection program or nuclear power plant as permitted by NFPA 805.

(4) *Risk-informed or performance-based alternatives to compliance with NFPA 805.* A licensee may submit a request to use risk-informed or performance-based alternatives to compliance with NFPA 805. The request must be in the form of an application for license amendment under § 50.90 of this chapter. The Director of the Office of Nuclear Reactor Regulation, or designee of the Director, may approve the application if the Director or designee determines that the proposed alternatives:

(i) Satisfy the performance goals, performance objectives, and performance criteria specified in NFPA 805 related to nuclear safety and radiological release;

(ii) Maintain safety margins; and

(iii) Maintain fire protection defense-in-depth (fire prevention, fire detection, fire suppression, mitigation, and post-fire safe shutdown capability).

\* \* \* \* \*

(f) Licensees that have submitted the certifications required under § 50.82(a)(1) shall maintain a fire protection program to address the potential for fires that could cause the release or spread of radioactive materials (*i.e.*, that could result in a radiological hazard). A fire protection program that complies with NFPA 805 shall be deemed to be acceptable for complying with the requirements of this paragraph.

\* \* \* \* \*

Dated at Rockville, Maryland, this 8th day of June, 2004.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**  
*Secretary of the Commission.*

[FR Doc. 04-13522 Filed 6-15-04; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM285; Special Conditions No. 25-269-SC]

#### Special Conditions: Boeing Model 767-2AX Airplane; Certification of Cooktops

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

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

**SUMMARY:** These special conditions are issued for the Boeing Model 767-2AX airplane, (serial number 33685), modified by Associated Air Center. This modified airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification includes the installation of an electrically heated surface, called a cooktop. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for addressing the potential hazards that may be introduced by cooktops. 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 June 3, 2004. Comments must be received on or before August 2, 2004.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM285, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. 285*. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-2194; facsimile (425) 227-1232.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

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. For this reason, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. We are 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.

The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for

comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments 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 Information

On November 22, 2002, Associated Air Center, P.O. Box 540728, 8210 Lemmon Ave, Love Field, Dallas, Texas 75234, applied for a Supplemental Type Certificate (STC) to modify the Boeing Model 767-2AX airplane (serial number 33685). The Model 767-2AX is a large transport category airplane powered by two GE CF6-80C2 engines, with a maximum takeoff weight of 395,000 pounds. The modified Model 767-2AX airplane operates with a 2-pilot crew (8 crew rest seats), up to 3 flight attendants, and can hold up to 32 passengers.

The modification includes the installation of an electrically heated surface, called a cooktop. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. These potential hazards to the airplane and its occupants must be satisfactorily addressed. Since existing airworthiness regulations do not contain safety standards addressing cooktops, special conditions are therefore needed.

### Type Certification Basis

Under the provisions of 14 CFR 21.101, Associated Air Center must show that the Boeing Model 767-2AX airplane (serial number 33685), as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate Data Sheet No. A1NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate Data Sheet No. A1NM are 14 CFR part 25, as amended by amendments 25-1 through 25-37, with reversions to earlier amendments. It also includes voluntary compliance with later amendments, special conditions, equivalent safety findings, and exemptions listed in the Type Certificate Data Sheet.

If the Administrator finds that the applicable airworthiness regulations

(that is, part 25 as amended) do not contain adequate or appropriate safety standards for the Boeing Model 767-2AX airplane (serial number 33685), modified by Associated Air Center 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, this Boeing Model 767-2AX airplane (serial number 33685) 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.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should Associated Air Center apply at a later date for a supplemental type certificate to modify any other model included on the Type Certificate No. A1NM to incorporate the same or similar novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101.

### Novel or Unusual Design Features

As noted earlier, the modification of the Boeing Model 767-2AX airplane (serial number 33685) will include installation of a cooktop in the passenger cabin. Cooktops introduce high heat, smoke, and the possibility of fire into the passenger cabin environment. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards to protect the airplane and its occupants from these potential hazards. Accordingly, this system is considered to be a novel or unusual design feature.

### Discussion

Currently, ovens are the prevailing means of heating food on airplanes. Ovens are characterized by an enclosure that contains both the heat source and the food being heated. The hazards represented by ovens are thus inherently limited, and are well understood through years of service experience. Cooktops, on the other hand, are characterized by exposed heat sources and the presence of relatively unrestrained hot cookware and heated food, which may represent unprecedented hazards to both occupants and the airplane.

Cooktops could have serious passenger and airplane safety implications if appropriate requirements

are not established for their installation and use. These special conditions apply to cooktops with electrically powered burners. The use of an open flame cooktop (for example natural gas) is beyond the scope of these special conditions and would require separate rulemaking action. The requirements identified in these special conditions are in addition to those considerations identified in Advisory Circular (AC) 25-10, "Guidance for Installation of Miscellaneous Non-required Electrical Equipment," and those in AC 25-17, "Transport Airplane Cabin Interiors Crashworthiness Handbook." The intent of these special conditions is to provide a level of safety that is consistent with that on similar airplanes without cooktops.

### Applicability

As discussed above, these special conditions are applicable to the Boeing Model 767-2AX airplane (serial number 33685), modified by Associated Air Center. Should Associated Air Center apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A1NM to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101.

### Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 767-2AX airplane (serial number 33685), modified by Associated Air Center. 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.

### 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 supplemental type certification basis for the Boeing Model 767-2AX airplane (serial number 33685), modified by Associated Air Center.

### Cooktop Installations With Electrically-Powered Burners

1. Means, such as conspicuous burner-on indicators, physical barriers, or handholds, must be installed to minimize the potential for inadvertent personnel contact with hot surfaces of both the cooktop and cookware. Conditions of turbulence must be considered.

2. Sufficient design means must be included to restrain cookware while in place on the cooktop, as well as representative contents (soups or sauces, for example) from the effects of flight loads and turbulence.

(a) Restraints must be provided to preclude hazardous movement of cookware and contents. These restraints must accommodate any cookware that is identified for use with the cooktop.

(b) Restraints must be designed to be easily utilized and effective in service. The cookware restraint system should also be designed so that it will not be easily disabled, thus rendering it unusable.

(c) Placarding must be installed which prohibits the use of cookware that cannot be accommodated by the restraint system.

3. Placarding must be installed which prohibits the use of cooktops (that is, power on any burner) during taxi, takeoff, and landing (TTL).

4. Means must be provided to address the possibility of a fire occurring on or in the immediate vicinity of the cooktop caused by materials or grease inadvertently coming in contact with the burners.

**Note:** Two acceptable means of complying with this requirement are as follows:

- Placarding must be installed that prohibits any burner from being powered when the cooktop is unattended (this would prohibit a single person from cooking on the cooktop and intermittently serving food to passengers while any burner is powered). In addition, a fire detector must be installed in the vicinity of the cooktop, which provides an audible warning in the passenger cabin; and a fire extinguisher of appropriate size and extinguishing agent must be installed in the immediate vicinity of the cooktop. A fire on or around the cooktop must not block access to the extinguisher. One of the fire extinguishers required by § 25.851 may be used to satisfy this requirement if the total complement of extinguishers can be evenly distributed throughout the cabin. If this is not possible, then the extinguisher in the galley area would be additional.

OR

- An automatic, thermally-activated fire suppression system must be installed to extinguish a fire at the cooktop and immediately adjacent surfaces. The agent used in the system must be an approved total flooding agent suitable for use in an occupied area. The fire suppression system must have

a manual override. The automatic activation of the fire suppression system must also automatically shut off power to the cooktop.

5. The surfaces of the galley surrounding the cooktop, which would be exposed to a fire on the cooktop surface or in cookware on the cooktop, must be constructed of materials that comply with the flammability requirements of Part III of Appendix F of part 25. This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces. During the selection of these materials, consideration must also be given to ensure that the flammability characteristics of the materials will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

6. The cooktop must be ventilated with a system independent of the airplane cabin and cargo ventilation system. Procedures and time intervals must be established to inspect and clean or replace the ventilation system to prevent a fire hazard from the accumulation of flammable oils. These procedures and time intervals must be included in the Instructions for Continued Airworthiness (ICA). The ventilation system ducting must be protected by a flame arrestor.

**Note:** The applicant may find additional useful information in Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, "Air Conditioning Systems for Subsonic Airplanes," dated August 1, 1991.

7. Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to airplane corrosion.

8. Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

9. A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the AFM will be required.

10. A readily deployable cover must be provided to cover the cooktop during taxi, takeoff, and landing (TT&L). The deployment of the cover must automatically shut off power to the cooktop.

Issued in Renton, Washington, on June 3, 2004.

**Franklin Tiangsing,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM281; Special Conditions No. 25-265-SC]

#### Special Conditions: Raytheon Aircraft MU-300-10 and 400 Airplanes; High Intensity Radiated Fields (HIRF)

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

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

**SUMMARY:** These special conditions are issued for Raytheon Aircraft Company Model MU-300-10 and 400 airplanes modified by Elliott Aviation Technical Products Development, Inc. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of a Honeywell AZ-252 Advanced Air Data Computer and optional BA-250 and AM-250 Altimeters. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). 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 June 3, 2004. Comments must be received on or before July 16, 2004.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM281, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM281. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.