

and Budget (OMB), approval number 3150-0017.

#### Public Protection Notification

NRC may not conduct nor sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

#### Regulatory Analysis

In the proposed rule, the Commission requested public comment on the draft regulatory analysis specifically on the costs to licensees. No comments were received on the draft regulatory analysis. However, one of the comments received on the proposed rule indicated that the cost per unit in most cases will be substantially greater than NRC's estimate. Because a licensee has flexibility in selecting the physical controls to be used in securing a portable gauge, the actual cost would depend on the controls selected. The cost per unit could range from \$100 for a metal cable to \$400 for a simple metal tool box, to even a higher cost for a more elaborately designed metal enclosure. In the regulatory analysis, an average of \$200 was used.

The Commission has finalized the regulatory analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD. Single copies of the regulatory analysis are available from Lydia Chang, telephone (301) 415-6319, e-mail, [lwc1@nrc.gov](mailto:lwc1@nrc.gov), of the Office of Nuclear Material Safety and Safeguards.

#### Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The final rule would affect about 1100 portable gauge specific NRC licensees and an additional 4000 Agreement State specific licensees. These licenses are issued principally to companies involved in road construction and maintenance. Many portable gauge licensees would qualify as small business entities as defined by 10 CFR 2.810. However, the final rule is not expected to have a significant economic impact on these licensees. Based on the regulatory analysis conducted for this action, the costs of the final rule for affected licensees are

estimated at \$200 per gauge. Among various alternatives considered, NRC believes that this final rule is the least burdensome and most flexible means of accomplishing NRC's regulatory objective. The regulatory analysis also notes that the requirements would result in potential cost savings for portable gauge licensees, particularly for the replacement of portable gauges due to unauthorized removal or theft. These savings would offset the implementation costs for portable gauge licensees. The NRC staff also notes that several Agreement States have imposed similar or more stringent requirements on their portable gauge licensees either by rule, order, or license condition.

In the published proposed rule (68 FR 45172; August 1, 2003), NRC specifically requested public comment from licensees concerning the impact of the proposed regulation because of the widely differing conditions under which portable gauge users operate. NRC particularly was seeking comment from licensees, who qualify as small businesses, as to how the proposed regulation would affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety. However, no comments were received on these issues.

#### Backfit Analysis

NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this final rule because this amendment does not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

#### Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

#### List of Subjects in 10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, NRC

is adopting the following amendments to 10 CFR part 30.

#### PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 1. The authority citation for part 30 continues to read as follows:

**Authority:** Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 2. In § 30.34, paragraph (i) is added to read as follows:

#### § 30.34 Terms and conditions of licenses.

\* \* \* \* \*

(i) Security requirements for portable gauges.

Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Dated in Rockville, Maryland, this 6th day of January, 2005.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 05-590 Filed 1-11-05; 8:45 am]

BILLING CODE 7590-01-P

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM295; Special Conditions No. 25-280-SC]

#### Special Conditions: Learjet Model 35, 35A, 36, and 36A 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 Learjet Model 35, 35A, 36, and 36A airplanes modified by ARINC,

Inc. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification is the installation of a Thommen AD32 Air Data Display Unit (ADDU) which incorporates a digital air data computer and altimeter. This equipment will perform critical functions. 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 December 23, 2004. Comments must be received on or before February 11, 2005.

**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. NM295, 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. NM295.

**FOR FURTHER INFORMATION CONTACT:** Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-2799; facsimile (425) 227-1320.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA has determined that notice and opportunity for prior public comment is impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, we invite interested persons to participate in this rulemaking by submitting 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 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**

On September 27, 2004, ARINC Inc., 1632 South Murray Blvd., Colorado Springs, CO 80916 applied for a supplemental type certificate (STC) to modify Learjet Model 35, 35A, 36, and 36A airplanes. Learjet Model 35, 35A, 36, and 36A airplanes are currently approved under Type Certificate No. A10CE. The Learjet Model 35, 35A, 36, and 36A airplanes are small transport category airplanes powered by two turbojet engines, with maximum takeoff weights of up to 18,000 pounds. These airplanes operate with a 2-pilot crew and can seat up to 8 passengers. The proposed modification is the installation of Dual Thommen AD-32 Air Data Display Units. The avionics/electronics and electrical systems to be installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

**Type Certification Basis**

Under the provisions of 14 CFR 21.101, ARINC, Inc. must show that the Learjet Model 35, 35A, 36, and 36A airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A10CE 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 original type

certification basis for the Learjet Model 35, 35A, 36, and 36A airplanes includes 14 CFR part 25, as amended by Amendments 25-2, 25-4, 25-7, 25-18 and § 25.571(d) of Amendment 25-10.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Learjet Model 35, 35A, 36, and 36A airplanes 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 Learjet Model 35, 35A, 36, and 36A airplanes 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 14 CFR 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 ARINC, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A10CE, 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 Learjet Model 35, 35A, 36, and 36A airplanes modified by ARINC, Inc. will incorporate Dual Thommen AD-32 Air Data Display Units that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

**Discussion**

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by

the regulations incorporated by reference, special conditions are needed for the Learjet Model 35, 35A, 36, and 36A airplanes modified by ARINC, Inc. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

**High-Intensity Radiated Fields (HIRF)**

With the trend toward increased power levels from ground-based transmitters, and the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths identified in the table below for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
8 GHz–12 GHz .....	3000	300
12 GHz–18 GHz .....	2000	200
18 GHz–40 GHz .....	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

**Applicability**

As discussed above, these special conditions are applicable to Learjet Model 35, 35A, 36, and 36A airplanes modified by ARINC, Inc. Should ARINC, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A10CE, 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 Learjet Model 35, 35A, 36, and 36A airplanes modified by ARINC, Inc. 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.

The substance of these special conditions has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, 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. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

**The Special Conditions**

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Learjet Model 35, 35A, 36, and 36A airplanes modified by ARINC, Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on December 23, 2004.

**Kevin Mullin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 05–557 Filed 1–11–05; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 29**

**Airworthiness Standards: Transport Category Rotorcraft; Equipment: Flight and Navigation Instruments; Correction**

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects an error that appears in the Code of Federal Regulations (CFR), title 14, as of January 1, 2004. The regulation relates to attitude-indicating instruments that are required to be installed on transport category rotorcraft.

**DATES:** Effective on January 12, 2005.

**FOR FURTHER INFORMATION CONTACT:** Terry Pearsall, phone (202) 267–3042.

**SUPPLEMENTARY INFORMATION:**

**Need for Correction**

■ As published in the CFR, these regulations contain errors in which the word “altitude” was incorrectly substituted for the word “attitude”. Accordingly, § 29.1303(g) of 14 CFR part

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz .....	50	50
100 kHz–500 kHz .....	50	50
500 kHz–2 MHz .....	50	50
2 MHz–30 MHz .....	100	100
30 MHz–70 MHz .....	50	50
70 MHz–100 MHz .....	50	50
100 MHz–200 MHz .....	100	100
200 MHz–400 MHz .....	100	100
400 MHz–700 MHz .....	700	50
700 MHz–1 GHz .....	700	100
1 GHz–2 GHz .....	2000	200
2 GHz–4 GHz .....	3000	200
4 GHz–6 GHz .....	3000	200
6 GHz–8 GHz .....	1000	200