

will notify the federal credit union in writing, and the federal credit union must, within five years, meet the criteria for the designation or come into compliance with the regulatory requirements applicable to federal credit unions that do not have a low-income designation. The designation will remain in effect during the five-year period. If a federal credit union does not requalify and has secondary capital or nonmember deposit accounts with a maturity beyond the five-year period, a regional director may extend the time for a federal credit union to come into compliance with regulatory requirements to allow the federal credit union to satisfy the terms of any account agreements. A federal credit union may appeal a regional director's determination that the credit union no longer meets the criteria for a low-income designation to the Board within 60 days of the date of the notice from the regional director. An appeal must be submitted through the regional director.

(5) Any credit union with a low-income credit union designation on January 1, 2009 will have five years from that date to meet the criteria for low-income designation under paragraph (a)(1) of this section, unless the regional director determines a longer time is required to allow the low-income credit union to satisfy the terms of a secondary capital or nonmember deposit account agreement.

(6) *Definitions.* The following definitions apply to this section:

*Median family income and total median earnings for individuals* are income statistics reported by the U.S. Census Bureau. The applicable income data can be obtained via the American FactFinder on the Census Bureau's webpage at [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en).

*Metropolitan area* means an area designated by the Office of Management and Budget pursuant to 31 U.S.C. 1104(d), 44 U.S.C. 3504(c), and Executive Order 10253, 16 FR 5605 (June 13, 1951) (as amended).

\* \* \* \* \*

**PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS**

■ 3. The authority for part 705 continues to read as follows:

**Authority:** 12 U.S.C. 1772c-1; 42 U.S.C. 9822 and 9822 note.

■ 4. Amend § 705.3 by revising paragraph (a) to read as follows:

**§ 705.3 Definitions.**

(a) The term “low-income members” means those members defined in § 701.34 of this chapter.

\* \* \* \* \*

[FR Doc. E8-28076 Filed 11-25-08; 8:45 am]

BILLING CODE 7535-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

[Docket No. NM396 Special Conditions No. 25-376-SC]

**Special Conditions: Boeing Model 767-300 and -300F Series Airplanes; Interaction of Systems and Structures**

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

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

**SUMMARY:** These special conditions are issued for the Boeing Model 767-300 and -300F airplane as modified by Aviation Partners Boeing Supplemental Type Certificate (STC). The modified airplane has novel or unusual design features involving installation of blended winglets and a speedbrake wing-load-alleviation system. This system reduces loading on the wing. The applicable airworthiness regulations for the Boeing Model 767-300 and -300F do not contain adequate or appropriate safety standards for systems which alleviate loads on structures. 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 applicable airworthiness standards. **DATES:** The effective date of these special conditions is November 14, 2008. We must receive your comments by January 12, 2009.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM396, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM396. 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:** Ian Won, FAA, Airframe & Cabin Safety Branch, ANM-115, Transport Airplane

Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2145; facsimile (425) 227-1149.

**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, the FAA invites 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 consider all comments we receive on or before the closing date for comments. We 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 self-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 February 21, 2007, Aviation Partners Boeing, Seattle, WA, applied for an STC to modify Boeing Model 767-300 and -300F series airplanes. These models are currently approved under Type Certificate No. A1NM. The Boeing Model 767-300 and 767-300F series airplanes are large transport-category airplanes. The Model 767-300 airplane is powered by either two Pratt

& Whitney or two General Electric engines. The Model 767-300F airplane is powered by two General Electric engines. The Boeing Model 767-300 airplane carries a maximum of 351 passengers. The Boeing Model 767-300F airplane is a freighter configuration.

The Boeing Model 767-300 and -300F airplanes, as modified by Aviation Partners Boeing, feature a wing-load-alleviation system which precludes full deployment of the speedbrakes given certain aircraft weights and airspeeds, thereby reducing wing loading. Special conditions have been applied on past airplane programs to require consideration of the effects of systems on structures. Current regulations do not take into account the effects of system failures on aircraft loads. A special condition is needed to account for these effects. These special conditions define the necessary requirements for assessing the effects of the speedbrake wing-load alleviation system on structures.

#### **Type Certification Basis**

Under the provisions of 14 CFR 21.101, Aviation Partners Boeing must show that the Boeing Model 767-300 and -300F series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate 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 certification basis for Boeing Model 767-300 and -300F series airplanes includes applicable sections of 14 CFR part 25, as amended by Amendments 25-1 through 25-37, with some later amendments as noted in Type Certificate No. A1NM. In addition, the certification basis includes certain special conditions, exemptions, equivalent levels of safety, or later amended sections of the applicable part 25 that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for Boeing Model 767-300 and -300F series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of Sec. 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 767-300 and -300F series 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 Sec. 11.38 and become part of the type certification basis in accordance with Sec. 21.101.

Special conditions are initially applicable to the model for which they are issued. Should Aviation Partners Boeing apply at a later date for an STC 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 also apply to the other model under the provisions of Sec. 21.101.

#### **Novel or Unusual Design Features**

The Boeing Model 767-300 and -300F, as modified by Aviation Partners Boeing, incorporates the following novel or unusual design features:

Blended winglets are installed on the wing tips. To reduce the structural loading of the 767-300 and 767-300F with Aviation Partners Boeing blended winglets, a wing-load-alleviation system will be used that limits the speedbrake deflection under certain conditions. The regulations do not provide adequate criteria governing the safety margins required for systems that affect design loads when they fail.

For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of 14 CFR part 25 Subparts C and D.

The following criteria must be used for showing compliance with this special condition for airplanes equipped with flight-control systems, autopilots, stability-augmentation systems, load-alleviation systems, flutter-control systems, fuel-management systems, and other systems that either directly, or as a result of failure or malfunction, affect structural performance. If this special condition is used for other systems, it may be necessary to adapt the criteria to the specific system.

The criteria defined herein only address the direct structural consequences of the system responses and performances and cannot be considered in isolation, but should be included in the overall safety evaluation of the airplane. These criteria may, in some instances, duplicate standards already established for this evaluation. These criteria are only applicable to structures whose failure could prevent

continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements, when operating in the system-degraded or inoperative mode, are not provided in this special condition.

Depending upon the specific characteristics of the airplane, additional studies may be required that go beyond the criteria provided in this special condition to demonstrate the capability of the airplane to meet other realistic conditions such as alternative gust or maneuver descriptions for an airplane equipped with a wing-load-alleviation system.

The following definitions are applicable to this special condition.

1. Structural performance: Capability of the airplane to meet the structural requirements of 14 CFR part 25.

2. Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (e.g., speed limitations, avoidance of severe-weather conditions, etc.).

3. Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload, and Master Minimum Equipment List limitations).

4. Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in this special condition are the same as those used in § 25.1309.

5. Failure condition: The term failure condition is the same as that used in § 25.1309. However, this special condition applies only to system-failure conditions that affect the structural performance of the airplane (e.g., system failure conditions that induce loads, change the response of the airplane to inputs such as gusts or pilot actions, or lower flutter margins).

#### **Applicability**

As discussed above, these special conditions are applicable to Boeing Model 767-300 and -300F airplanes modified by Aviation Partners Boeing. Should Aviation Partners Boeing apply at a later date for an STC 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 Sec. 21.101.

#### **Conclusion**

This action affects only certain novel or unusual design features on Boeing Model 767-300 and -300F series

airplanes modified by Aviation Partners Boeing. 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 STC basis for the Boeing Model 767-300 and -300F series airplanes modified by Aviation Partners Boeing.

1. General. The following criteria will be used in determining the influence of a system and its failure conditions on the airplane structure.

2. System fully operative. With the system fully operative, the following apply:

(a) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in Subpart C (or defined by special condition or equivalent level of safety in lieu of those specified in Subpart C), taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(b) The airplane must meet the strength requirements of part 25 (static

strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure that the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that do not allow it to exceed those limit conditions.

(c) The airplane must meet the aeroelastic stability requirements of § 25.629.

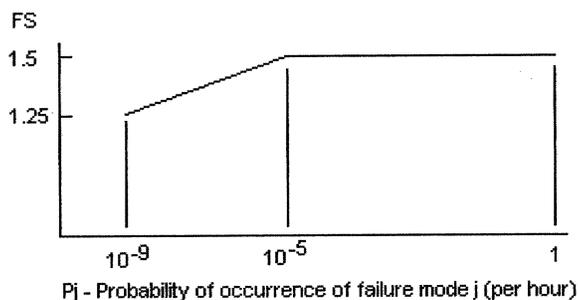
3. System in the failure condition. For any system-failure condition not shown to be extremely improbable, the following apply:

(a) At the time of occurrence. Starting from 1-g level-flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(1) For static-strength substantiation, these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure, are ultimate loads to be considered for design. The factor of safety (FS) is defined in Figure 1.

Figure 1

Factor of safety at the time of occurrence



(2) For residual-strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in subparagraph 3(a)(1). For pressurized cabins, these loads must be combined with the normal operating differential pressure.

(3) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speeds

beyond  $V_C/M_C$ , freedom from aeroelastic instability must be shown to increase speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(4) Failures of the system that result in forced-structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

(b) For the continuation of the flight. For the airplane, in the system-failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(1) The loads derived from the following conditions (or defined by special condition or equivalent level of safety in lieu of the following conditions) at speeds up to  $V_C/M_C$ , or the speed limitation prescribed for the

remainder of the flight, must be determined:

(i) The limit-symmetrical-maneuvering conditions specified in § 25.331 and in § 25.345.

(ii) The limit-gust-and-turbulence conditions specified in § 25.341 and in § 25.345.

(iii) The limit-rolling conditions specified in § 25.349

(iv) The limit-unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(v) The limit-yaw-maneuvering conditions specified in § 25.351.

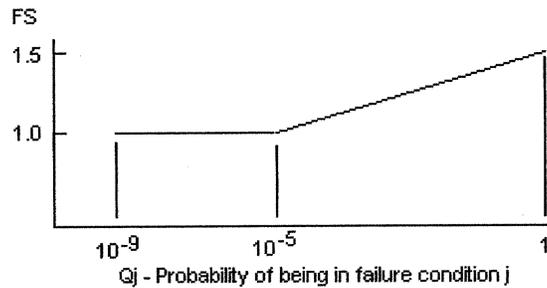
(vi) The limit-ground-loading conditions specified in §§ 25.473 and 25.491.

(2) For static-strength substantiation, each part of the structure must be able

to withstand the loads in paragraph 3(b)(1) of the special condition multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2

Factor of safety for continuation of flight



$Q_j = (T_j)(P_j)$

Where:

$T_j$  = Average time spent in failure condition  $j$  (in hours)

$P_j$  = Probability of occurrence of failure mode  $j$  (per hour)

**Note:** If  $P_j$  is greater than  $10^{-3}$  per flight hour then a 1.5 factor of safety must be applied to all limit-load conditions specified

in Subpart C.3. For residual-strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in paragraph 3(b)(2) of the special condition. For pressurized cabins, these loads must be combined with the normal operating differential pressure.

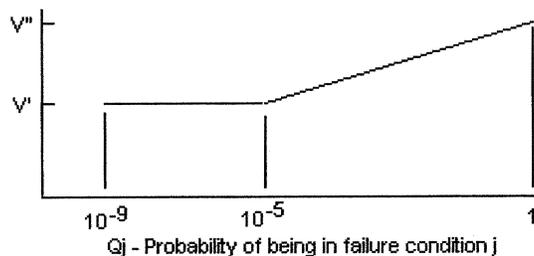
4. If the loads induced by the failure condition have a significant effect on

fatigue or damage tolerance, then their effects must be taken into account.

5. Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds  $V'$  and  $V''$  may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3

Clearance speed



$V'$  = Clearance speed as defined by § 25.629(b)(2).

$V''$  = Clearance speed as defined by § 25.629(b)(1).

$Q_j = (T_j)(P_j)$

Where:

$T_j$  = Average time spent in failure condition  $j$  (in hours)

$P_j$  = Probability of occurrence of failure mode  $j$  (per hour)

**Note:** If  $P_j$  is greater than  $10^{-3}$  per flight hour, then the flutter clearance speed must not be less than  $V''$ .

6. Freedom from aeroelastic instability must also be shown up to  $V'$  in Figure 3 above, for any probable system-failure condition combined with any damage required or selected for investigation by § 25.571(b).

(c) Consideration of certain failure conditions may be required by other sections of 14 CFR part 25 regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than  $10^{-9}$ , criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

4. Failure indications. For system failure detection and indication, the following apply:

(a) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. As far as reasonably practicable, the flight crew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of detection-and-indication systems to achieve the objective of this requirement. These certification-maintenance requirements must be limited to components that are not readily detectable by normal detection-and-indication systems and where service history shows that inspections provide an adequate level of safety.

(b) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flight crew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of Subpart C below 1.25, or flutter margins below  $V''$ , must be signaled to the crew during flight.

5. Dispatch with known failure conditions. If the airplane is to be dispatched in a known system-failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of this special condition must be met, including the provisions of paragraph 2 for the dispatched condition, and paragraph 3 for subsequent failures. Expected operational limitations may be taken into account in establishing  $P_j$  as the probability of failure occurrence for determining the safety margin in Figure 1. Flight limitations and expected operational limitations may be taken into account in establishing  $Q_j$  as the

combined probability of being in the dispatched failure condition, and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit-load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system-failure rate is greater than  $1E-3$  per hour.

Issued in Renton, Washington, on November 14, 2008.

**Stephen P. Boyd,**

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

[FR Doc. E8-28024 Filed 11-25-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2008-0757; Airspace Docket No. 08-ASW-13]

#### Amendment of Class E Airspace; Big Spring, TX

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

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace at Big Spring McMahon-Wrinkle Airport, Big Spring, TX. Changes to the VOR/DME RWY 17 Standard Instrument Approach Procedure (SIAP) have made this action necessary for the safety of Instrument Flight Rule (IFR) operations at the airport.

**DATES:** *Effective Date:* 0901 UTC, March 12, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Ft Worth, TX 76193-0530; telephone (817) 222-5582.

#### SUPPLEMENTARY INFORMATION:

##### History

On September 29, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Big Spring, TX (73 FR 56528, Docket No. FAA-2008-0757). Interested parties were invited to

participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

#### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Big Spring McMahon-Wrinkle Airport, Big Spring, TX. Additional controlled airspace is necessary to accommodate changes to the VOR/DME Rwy 17 SIAP.

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. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Big Spring McMahon-Wrinkle Airport, Big Spring, TX.

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

Airspace, Incorporation by reference, Navigation (air).