

section, every alien must meet certain English language requirements in order to obtain a certificate. The Secretary of Health and Human Services has determined that an alien must have a passing score on one of the two tests listed in paragraph (g)(3) of this section before he or she can be granted a certificate.

(2) Aliens exempt from the English language requirement. Aliens who have graduated from a college, university, or professional training school located in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, and the United States are exempt from the English language requirement.

(3) Approved testing services.

(i) Michigan English Language Assessment Battery (MELAB).

(ii) Test of English as a Foreign Language, Educational Testing Service (ETS).

(4) Passing scores for various occupations. (i) *Occupational therapists*. An alien seeking to perform labor in the United States as an occupational therapist must obtain the following scores on the English tests administered by ETS: Test Of English as a Foreign Language (TOEFL), Paper-Based 560, Computer-Based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50. Certifying organizations shall not accept the results of the MELAB for the occupation of occupational therapists. Aliens seeking to obtain a certificate to work as an occupational therapist must take the test offered by the ETS. MELAB scores are not acceptable for these occupations.

(ii) *Registered nurses*. An alien coming to the United States to perform labor as a registered nurse must obtain the following scores to obtain a certificate: ETS: TOEFL: Paper-Based 540, Computer-Based 207; TWE: 4.0; TSE: 50; MELAB: Final Score 79; Oral Interview: 3+.

(iii) *Licensed practical nurses and licensed vocational nurses*. An alien coming to the United States to perform labor as a licensed practical nurse or licensed vocational nurse must have the following scores to be issued a certificate: ETS: TOEFL: Paper-Based 530, Computer-Based 197; TWE: 4.0; TSE: 50; MELAB: Final Score 77; Oral Interview: 3+.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

3. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; 8 CFR part 2.

4. Section 245.14 is added to read as follows:

§ 245.14. Adjustment of status of certain health care workers.

An alien applying for adjustment of status to perform labor in a health care occupation as described in 8 CFR 212.15(c) must present evidence at the time he or she applies for adjustment of status, and, if applicable, at the time of the interview on the application, that he or she has a valid certificate issued by the Commission on Graduates of Foreign Nursing Schools or the National Board of Certification in Occupational Therapy.

Dated: October 6, 1998.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 98-27522 Filed 10-13-98; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 93-076-12]

RIN 0579-AA59

Animal Welfare; Marine Mammals, Swim-With-the-Dolphin Programs

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Applicability of regulations.

SUMMARY: We are announcing that, until further notice, the Animal and Plant Health Inspection Service will not apply to wading programs the standards in the "swim-with-the-dolphin" regulations pertaining to participant/attendant ratio and space for the interactive area.

EFFECTIVE DATE: October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1228, (301) 734-7833.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1998, the Animal and Plant Health Inspection Service published a final rule in the **Federal Register** (63 FR 47128-47151, Docket No. 93-076-10) that amended the Animal Welfare regulations in 9 CFR, part 3, subpart E (referred to below as the regulations), to establish standards for "swim-with-the-dolphin" (SWTD) programs. The rule became effective October 5, 1998. The regulations

include standards for space (see § 3.111(a)) and standards for the ratio of human participants to attendants or other authorized SWTD personnel (i.e., head trainer/behaviorist or trainer/supervising attendant) (see § 3.111(e)(4)).

This document announces that, as of October 5, 1998, and until further notice, we are not applying to wading programs the standards in § 3.111(a) for space for the interactive area or the standards in § 3.111(e)(4) for human participant/attendant ratio. For the purposes of this action, wading programs are those in which human participants interact with dolphins by remaining stationary and non-buoyant. We will more fully examine the issue of interactive space requirements and human participant/attendant ratios for programs in which contact between humans and cetaceans is limited and controlled, with negligible movement of humans within the enclosure, and in the near future will publish a document in the **Federal Register** requesting information from the public concerning such programs.

Authority: 7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.2(g).

Done in Washington DC, this 6th day of October 1998.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-27368 Filed 10-13-98; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE148, Special Condition 23-98-04-SC]

Special Conditions; Raytheon Aircraft Company Model 300 Airplane; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to California Microwave, Inc., 701 Wilson Point Road, Martin State Airport, Box 4, Baltimore, Maryland 21220, for a Supplemental Type Certificate on the Raytheon Model 300 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel

and unusual design features include the installation of an electronic flight instrument system (EFIS) for which the applicable regulations do not contain adequate or appropriate airworthiness 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 provided by the applicable airworthiness standards.

DATES: The effective date of these special conditions is October 2, 1998. Comments must be received on or before November 13, 1998.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. CE148, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE148. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426-6941.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design 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.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested

persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE148." The postcard will be date stamped and returned to the commenter.

Background

On April 23, 1998, California Microwave, Inc., 701 Wilson Point Road, Martin State Airport, Box 4, Baltimore, Maryland 21220, applied to the FAA for a Supplemental Type Certificate (STC) for a modification on a Raytheon Model 300 airplane. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, California Microwave, Inc. must show that the Raytheon Model 300 airplane meets the applicable provisions of the following:

The type certification basis as modified by this STC to add an EFIS on the Raytheon Model 300 airplane is given by the following:

Special Federal Aviation Regulation (SFAR) 41C, effective September 13, 1982, see NOTE 7 or 11 (300 only); 14 CFR part 23, effective February 1, 1965, through Amendment 23-9; Amendment 23-11; Amendment 23-14, §§ 23.143(a), 23.145(d), 23.153, 23.161(c)(3), 23.173(a), 23.175, 23.427, 23.441, and 23.445; Amendment 23-15, § 23.951(c) and § 23.997(d); Amendment 23-23, § 23.1545(a); Amendment 23-26, §§ 23.967 and 23.1305(n); Special Conditions No. 23-47-CE-5, including Amendment Nos. 1, 2, 3 dated November 15, 1982, and 4 dated October 17, 1986; 14 CFR part 25, § 25.929, effective February 1, 1965, Amendment 25-23, § 25.1419; Amendment 25-41, § 25.831(d); 14 CFR part 36, through Amendment 36-10, and SFAR 27, through Amendment 27-4; § 23.1301 of Amendment 23-20; §§ 23.1309, 23.1311, and 23.1321 of Amendment 23-49; and § 23.1322 of Amendment 23-43; exemptions, if any; and the special conditions adopted by this rulemaking action. Compliance with ice protection has been demonstrated in accordance with § 25.1419 when ice protection

equipment is installed in accordance with the Equipment List.

If the Administrator finds that the applicable airworthiness regulations, 14 CFR part 23, do not contain adequate or appropriate safety standards for the Raytheon Model 300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The California Microwave, Inc. modified Raytheon Model 300 airplane will incorporate the following novel or unusual design features: Installation of an EFIS for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF.

Discussion

The FAA may issue and amend special conditions, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards, designated according to § 21.101(b), do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations. Special conditions are normally issued according to § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become a part of the type certification basis in accordance with § 21.101(b)(2).

California Microwave, Inc. plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include an EFIS, which is susceptible to the HIRF environment, that was not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced EFIS that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade EFIS performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number

of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of EFIS required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the

airplane be evaluated under these energy levels for the protection of the EFIS and its associated wiring harness. These external threat levels, which are lower than previously required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined as follows:

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
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 root-mean-square (rms) values.

or,
(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, peak electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify electrical and/or electronic systems that perform critical functions. The term *critical* means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical

functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary EFIS, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements

of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Raytheon Model 300 airplane. Should California Microwave, Inc. apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model Raytheon Model 300 airplane. 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 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, and 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 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Raytheon Model 300 airplane modified by California Microwave, Inc. to add an EFIS.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operation, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

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 Kansas City, Missouri on October 2, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-27533 Filed 10-13-98; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-63-AD; Amendment 39-10836; AD 98-21-28]

RIN 2120-AA64

Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain British Aerospace Jetstream Model 3101 airplanes. This AD requires modifying the propeller de-icing system to assure system performance at low ambient temperatures. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified in this AD are intended to prevent propeller-induced vibrations from occurring during icing encounters at low ambient temperatures, which could result in decreased performance of the de-icing system during icing encounters with possible loss of control of the airplane.

DATES: Effective January 15, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before November 13, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-63-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This

information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-63-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6932; facsimile: (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace Jetstream Model 3101 airplanes. The CAA reports cases of propeller-induced vibrations occurring during icing encounters at low ambient temperatures (-10 to -20 degrees Celsius).

These conditions, if not corrected, could result in decreased performance of the de-icing system during icing encounters with possible loss of control of the airplane.

Relevant Service Information

Jetstream has issued Service Bulletin 30-JM 7453, Original Issue: October 24, 1984, Revision 2: December 10, 1984, which specifies procedures for accomplishing the following modifications to the de-icing system:

Modification No.	Title
JM 7398	Ice Protection—Introduction of Revised Propeller De-Ice Circuit.
JM 7407	Ice and Rain Protection—Introduction of Dowty Rotol Dual Brush Block Assembly in Propeller De-icing Systems.
JM 7408	Propeller—Introduction of Propeller Incorporating Slipping to Dowty Rotol Mod VP3062.
JM 7445	Propeller—Introduction of Propeller with Revised 21-inch Boots.
JM 7449	Ice and Rain Protection—Introduction of Dowty Rotol Dual Rate Timer, Revised Ammeter, Selector Switch, and Fuses.

The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom. The CAA classifying a service bulletin as mandatory is the same in the United