not health-related. In addition, the agency suggested there is no need for the new regulations at § 550.409. The agency recommended deleting § 550.409 and suggested adding the term ''such as a pandemic health crisis'' after ''other reasons'' to the regulations at § 550.401(a). We are not adopting these recommendations. Unlike emergency situations where employees may be ordered to evacuate a designated geographic area (including evacuating their worksites and homes), during a pandemic health crisis employees may likely be ordered to evacuate their worksites to promote ''social distancing'' but not ordered to evacuate their homes. Because of these unique conditions, we believe it is imperative to limit the use of the evacuation payment authority in § 550.409 to a pandemic health crisis.

One agency recommended revising § 550.409(a) to make clear that an agency's authority during a pandemic health crisis to order an employee to evacuate from his or her worksite and perform work from the employee's home includes the situation where the agency and the employee do not have a telework agreement in place at the time the order to evacuate is issued. We agree and have revised § 550.409(a). The agency also recommended that OPM delete the provision in § 550.409(a) which limits an agency's authority to order an employee to perform work from a location other than the employee's home to a location that is ''mutually agreeable to the agency and the employee.'' The agency believes it is impractical to require an agency and an employee to engage in discussions with the intent of reaching an agreement as to where the employee is going to work, especially in the context of an emergency health crisis. We are not adopting this recommendation. During a pandemic health crisis, if an employee does not comply with his or her agency's order to work from home, or the agency and the employee cannot agree on an alternative work location, the agency may disapprove the employee's evacuation payments. Under these circumstances, the employee may be required to use his or her accrued annual leave (*i.e.*, ''enforced leave''), may be furloughed, or disciplined, as appropriate.

One agency noted that the issue of temporary promotion pay is not clearly addressed in the regulations. Under § 550.409(a), evacuated employees may be assigned to perform any work necessary or required to be performed without regard to his or her grade, level, or title. The regulations also require agencies to compute evacuation payments under § 550.404, which states that evacuation payments must be based on the rate of pay to which the employee was entitled immediately before the issuance of the order to evacuate. The commenter recommended revising the regulations to clarify that evacuation payments must be based on the rate of pay to which the employee was entitled immediately before the issuance of the order to evacuate, notwithstanding an agency's policy or collective bargaining agreement regarding an employee's entitlement to a noncompetitive temporary promotion when the employee is required to perform higher-level duties during the period of evacuation. We are not adopting this recommendation. While there may be circumstances in which it will be necessary to temporarily suspend certain provisions of an agency policy or a collective bargaining agreement in an emergency, it would be inappropriate to provide such a broad authorization to do so. The decision to take such action must be made on a case-by-case basis taking into consideration the facts and circumstances that exist at that time.

E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 531 and 550

Administrative practice and procedure, Claims, Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the interim rule amending 5 CFR parts 531 and 550, which was published at 71 FR 47692 on August 17, 2006, is adopted as final with the following change:

PART 550—PAY ADMINISTRATION (GENERAL)

■ 1. The authority citation for subpart D of part 550 continues to read as follows:

Authority: 5 U.S.C. 5527; E.O. 10982, 3 CFR parts 1959–1963, p. 502.

■ 2. Amend § 550.409 by revising the first sentence of paragraph (a) to read as follows:

§ 550.409 Evacuation payments during a pandemic health crisis.

(a) An agency may order one or more employees to evacuate from their worksite and perform work from their home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis without regard to whether the agency and the employee have a telework agreement in place at the time the order to evacuate is issued.* * * * * * * * *

[FR Doc. E7–11584 Filed 6–14–07; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM379 Special Conditions No. 25–07–12–SC]

Special Conditions: Boeing Model 777–300ER Airplane; Lithium Ion Battery Installation

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 777–300ER airplane. This airplane as modified by the Boeing Commercial Airplane Company will have a novel or unusual design feature associated with the use of lithium ion battery technology in on-board systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. 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 1, 2007. We must receive your comments by July 30, 2007.

ADDRESSES: Comments on this rule may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM379, 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. NM379. 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: Nazih Khaouly, FAA, Airplane & Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2432; facsimile (425) 227–1149.

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 design approval and thus delivery of the affected aircraft. In addition, these special conditions are identical to those issued for another model of airplane; those special conditions were subjected to prior notice and public comment. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference as 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 about these special conditions. You can inspect the docket 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 by 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 us to let you know we received your comments on these special conditions, send us 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 February 15, 2006, Boeing Commercial Airplane Group, Seattle, Washington, applied for an amended type certificate to install a new Panasonic eX2 in-flight entertainment (IFE) system in a Boeing 777–300ER airplane. The Boeing Model 777–300ER airplane is a large twin engine airplane with a maximum passenger capacity of 550.

The regulations do not address the novel and unusual design features associated with the installation of an IFE system that uses lithium ion battery technology.

Type Certification Basis

Under the provisions of § 21.101 Boeing Commercial Airplane Group must show that the Boeing Model 777–300ER, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE 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 T00001SE are Title 14 Code of Federal Regulations (CFR), part 25, as amended by Amendments 25–1 through 25–98, except for §§ 25.831(a) and (g) and 25.841(a), which remain at Amendment 25–86, and § 25.853(d)(3), which remains at Amendment 25–82. Section 25.1517 is not part of the TC. Refer to Type Certificate No. T00001SE, as applicable, for a complete description of the certification basis for this model, including certain special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (part 25, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 777–300ER 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 Boeing Model 777–300ER 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.

The FAA issues special conditions, as defined in § 11.19 and § 11.38 and they become part of the type certification basis under § 21.101.

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, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The Boeing Commercial Airplane Group proposes using lithium ion battery technology for the IFE system in this airplane. High capacity, rechargeable lithium ion batteries are a novel or unusual design feature in transport category airplanes. Because of rapid improvements in airplane technology, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions for the 777–300ER 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.

Lithium ion batteries have certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on large transport category airplanes. The FAA is adopting these special conditions to require that (1) all characteristics of the lithium ion battery and its installation that could affect safe operation of the 777–300ER are addressed, and (2) appropriate maintenance requirements are established to ensure availability of electrical power from the batteries when needed.

Background

The current regulations governing installation of batteries in large transport category airplanes were derived from Civil Air Regulations (CAR) part 4b.625(d) as part of the re-codification of CAR 4b that established 14 CFR part 25 in February, 1965. The new battery requirements, 14 CFR 25.1353(c)(1) through (c)(4), basically reworded the CAR requirements.

Increased use of nickel-cadmium batteries in small airplanes resulted in increased incidents of battery fires and failures. This led to additional rulemaking affecting large transport category airplanes as well a small airplanes. On September 1, 1977, and March 1, 1978, respectively the FAA issued 14 CFR 25.1353(c)(5) and (c)(6), governing nickel-cadmium battery installations on large transport category airplanes.

The proposed use of lithium ion batteries for the IFE system on the Boeing Model 777–300ER airplane has prompted the FAA to review the adequacy of these existing regulations. Our review indicates that existing

regulations do not adequately address several failure, operational, and maintenance characteristics of lithium ion batteries that could affect the safety and reliability of the 777–300ER's lithium ion battery installation.

At present, there is limited experience with use of rechargeable lithium ion batteries in applications involving commercial aviation. However, other uses of this technology, ranging from wireless telephone manufacturing to the electric vehicle industry, have noted safety problems with lithium ion batteries. These problem include overcharging, over-discharging, and flammability of cell components.

1. Overcharging

In general, lithium ion batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (thermal runaway) than their nickel-cadmium or lead-acid counterparts. This is especially true for overcharging, which causes heating and destabilization of the components of the cell, leading to formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway from overcharging increases with increasing battery capacity, because of the higher amount of electrolytes in large batteries.

2. Over-Discharging

Discharge of some types of lithium ion batteries beyond a certain voltage (typically 2.4 volts) can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flightcrews as a means of checking battery status. This is a problem shared with nickel-cadmium batteries.

3. Flammability of Cell Components

Unlike nickel-cadmium and lead-acid batteries, some types of lithium ion batteries use liquid electrolytes that are flammable. The electrolytes can serve as a source of fuel for an external fire, if there is a breach of the battery container.

These problems experienced by users of lithium ion batteries raise concern about their use in commercial aviation. The intent of these special conditions is to establish appropriate airworthiness standards for lithium ion battery installations in the Boeing Model 777–300ER airplane and to ensure, as required by 14 CFR 25.601, that these battery installations are not hazardous or unreliable. To address these concerns, these special conditions adopt the following requirements:

- Those sections of 14 CFR 25.1353 that are applicable to lithium ion batteries.
- The flammable fluid fire protection requirements of 14 CFR 25.863. In the past, this rule was not applied to batteries of transport category airplanes, since the electrolytes used in lead-acid and nickel-cadmium batteries are not flammable.
- New requirements to address the hazards of overcharging and over-discharging that are unique to lithium ion batteries.
- New maintenance requirements to ensure that batteries used as spares are maintained in an appropriate state of charge.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 777–300ER airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Boeing Model 777–300ER is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

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 type certification basis for the Boeing Model 777–300ER airplane.

In lieu of the requirements of 14 CFR 25.1353(c)(1) through (c)(4), the following special conditions apply. Lithium ion batteries on the Boeing Model 777–300ER airplane must be designed and installed as follows:

(1) Safe cell temperatures and pressures must be maintained during any foreseeable charging or discharging condition and during any failure of the charging or battery monitoring system not shown to be extremely remote. The lithium ion battery installation must preclude explosion in the event of those failures.

(2) Design of the lithium ion batteries must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

(3) No explosive or toxic gases emitted by any lithium ion battery in normal operation, or as the result of any failure of the battery charging system, monitoring system, or battery installation not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

(4) Installations of lithium ion batteries must meet the requirements of 14 CFR 25.863(a) through (d).

(5) No corrosive fluids or gases that may escape from any lithium ion battery may damage surrounding structure or any adjacent systems, equipment, or electrical wiring of the airplane in such a way as to cause a major or more severe failure condition, in accordance with 14 CFR 25.1309(b) and applicable regulatory guidance.

(6) Each lithium ion battery installation must have provisions to prevent any hazardous effect on structure or essential systems caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

(7) Lithium ion battery installations must have a system to control the charging rate of the battery automatically, so as to prevent battery overheating or overcharging, and,

(i) A battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or,

(ii) A battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

(8) Any lithium ion battery installation whose function is required for safe operation of the airplane must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the state of charge of the batteries has fallen below levels considered acceptable for dispatch of the airplane.

(9) The Instructions for Continued Airworthiness required by 14 CFR 25.1529 must contain maintenance requirements for measurements of battery capacity at appropriate intervals to ensure that batteries whose function is required for safe operation of the airplane will perform their intended function as long as the battery is installed in the airplane. The Instructions for Continued Airworthiness must also contain procedures for the maintenance of lithium ion batteries in spares storage to prevent the replacement of batteries whose funciton is required for safe operation of the airplane with batteries that have experienced degraded charge retention ability or other damage due to prolonged storage at a low state of charge.

Note: These special conditions are not intended to replace 14 CFR 25.1353(c) in the certification basis of the Boeing Model 777–300ER airplane. These special conditions apply only to lithium ion batteries and their installations. The requirements of 14 CFR 25.1353(c) remain in effect for batteries and battery installations of the Boeing Model 777–300ER airplane that do not use lithium ion batteries.

Issued in Renton, Washington, on June 1, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 07–2939 Filed 6–14–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24926; Airspace Docket No. 06–ASW–1]

RIN 2120–AA66

Establishment, Modification and Revocation of VOR Federal Airways; East Central United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes VOR Federal Airway, V–65 over the East Central United States in support of the Midwest Airspace Enhancement Plan (MASE). The FAA is taking this action to enhance safety and to improve the efficient use of the navigable airspace assigned to the Chicago, Cleveland, and Indianapolis Air Route Traffic Control Centers (ARTCC).

DATES: *Effective Date:* 0901 UTC, August 30, 2007. 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: Steve Rohring, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On June 16, 2006, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish 16 VOR Federal Airways (V–65, V–176, V–383, V–396, V–406, V–410, V–414, V–416, V–418, V–426, V–467, V–486, V–542, V–584, V–586, and V–609); modify 13 VOR Federal Airways (V–14, V–26, V–40, V–72, V–75, V–90, V–96, V–103, V–116, V–133, V–297, V–435, and V–526); and revoke one VOR Federal Airway (V–42) (71 FR 34854). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received objecting to the proposal.

On January 18, 2007, the FAA published in the **Federal Register** a final rule (72 FR 2182) taking action on all of the above proposed airway establishments, modifications and revocations except V–65 and V–133. Establishment of V–65 was deferred because the Sandusky VOR was out of service. This action establishes V–65 now that the Sandusky VOR has been returned to service. Modification of V–133 was deferred because the original routing proposed in the NPRM did not pass flight check. Action on V–133 will be taken under a separate rulemaking action.

VOR Federal Airways are published in paragraph 6010 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The VOR Federal Airways listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 to establish VOR Federal Airway V–65 over the East Central United States within the airspace assigned to the Chicago, Cleveland, and Indianapolis ARTCCs. This action enhances safety and facilitates the more flexible and efficient use of the navigable airspace. Further, this action enhances the management of aircraft operations within the Chicago, Cleveland, and Indianapolis ARTCCs' areas of responsibility.

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 Department of Transportation (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.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environment Policy Act in accordance with 311a and 311b., FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures''. This airspace action is not expected to cause any potentially significant environment impacts, and no extraordinary circumstances exist that warrant preparation of environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows: