

be at the risk of the party undertaking the destruction.

(b) At all times during regular business hours, authorized representatives of CCC, the United States Department of Agriculture, or the Comptroller General of the United States shall have access to the premises of the apple operation in order to inspect, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraph (a) of this section.

(c) Any funds disbursed pursuant to this part to any person or operation who does not comply with the provisions of paragraphs (a) or (b) of this section, or who otherwise receives a payment for which they are not eligible, shall be refunded with interest.

**§ 1470.217 Refunds; joint and several liability.**

(a) In the event of an error on an application, a failure to comply with any term, requirement, or condition for payment arising under the application, or this subpart, all improper payments shall be refunded to CCC together with interest and late payment charges as provided in part 1403 of this title.

(b) All persons signing an apple operation's application for payment as having an interest in the operation shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

**§ 1470.218 Violations of highly erodible land and wetland conservation provisions.**

The provisions of part 12 of this title apply to this subpart.

Signed in Washington, DC, on September 25, 2002.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02-25984 Filed 10-8-02; 1:07 pm]

BILLING CODE 3410-05-P

**DEPARTMENT OF JUSTICE**

**Immigration and Naturalization Service**

**8 CFR 217**

[INS No. 2219-02]

RIN 1115-AG73

**Passenger Data Elements for the Visa Waiver Program**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rule serves to further implement the automated entry and exit control system mandated by section 217(h) and other provisions of the Immigration and Nationality Act (Act) by specifying those passenger data elements that must be electronically transmitted to the Immigration and Naturalization Service (Service) by carries seeking to transport Visa Waiver Program (VWP) passengers into and out of the United States on or after publication of this rule. This rule will also ensure that legitimate VWP travel is not disrupted. This rule is necessary for the proper identification and monitoring of VWP aliens.

**DATES:** *Effective date:* October 11, 2002. *Comment date:* Written comments must be submitted on or before November 12, 2002.

**ADDRESSES:** Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street NW, Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2219-02 on your correspondence. Comments may also be submitted electronically to the Service at [insregs@usdoj.gov](mailto:insregs@usdoj.gov). Comments submitted electronically must include the INS No. 2219-02 in the subject heading to ensure that the comments can be transmitted electronically to the appropriate program office. Comments are available for public inspection at the above address by calling (202) 514-3291 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Flemmi, Assistance Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 5237, Washington, DC 20536, telephone number: (202) 305-9247.

**SUPPLEMENTARY INFORMATION:**

**Background**

Congress mandated that, by 2005, the U.S. Department of Justice must complete deployment at all ports-of-entry (POE) of an entry-exit system that integrates the available alien arrival and departure data that exists in the systems of the Department and the U.S. Department of State (DOS). The Immigration and Naturalization Service Data Management Improvement Act of 2000, Public Law 106-215, 114 Stat. 337 (2000), codified, as amended, at 8 U.S.C. 1365a. This system also must include the arrival and departure for any visitor who transits through the air and

seaports and is admitted under the Visa Waiver Program.

**What Is the Visa Waiver Program (VWP)?**

The Visa Waiver Program (VWP) permits nationals from participating countries to apply for admission to the United States for a duration of 90 days or fewer, as nonimmigrant visitors for business or pleasure, without first obtaining a nonimmigrant visa, provided that all other statutory and regulatory requirements are met. If arriving by air or sea, a VWP traveler must arrive on a carrier that signed an agreement (signatory carrier) with the Service guaranteeing that it will transport its VWP passengers deemed inadmissible or deportable out of the United States at no expense to the United States government. See 8 CFR part 217. The VWP has been expanded and made permanent. This rule implements one of the steps to making the VWP system permanent.

**How Does the Permanent VWP Change the Pilot Program?**

The Visa Waiver Permanent Program Act (VWPPA), Public Law 106-396, 114 Stat. 1637 (Oct. 30, 2000), converted the Vias Waiver Pilot Program which was first launched in 1988 into a permanent program with several modifications. Congress modified the pilot program in order to safeguard the United States' law enforcement and security interests and to reduce the ability of inadmissible aliens to enter the United States under the program. See H.R. Rep. No. 106-564, at 7 (2000); see also H.R. Rep. No. 106-1048, p. unavail. (2001). Among other modifications, the VWPPA required the Attorney General to develop and implement, on or before October 1, 2001, at automated entry and exit control system to collect the arrival and departure record for each VWP passenger admitted at a U.S. air or sea port-of-entry (POE). The automated control system was to be based, to the maximum extent practicable, on passenger data collected and electronically transmitted by each carrier that has an agreement with the Service to transport aliens to the United States. The Service has worked with and informed the Air Transport Association (ATA), International Air Transport Association (IATA), International Council of Cruise Lines (ICCL), and other interested stakeholders of the development of the electronic arrival passenger data transmittal system. Currently, over 140 carriers submit electronic arrival passenger information. Of those carriers who do not currently have this system in place, most are fully

aware of both the arrival and departure requirements of the system and the statutory deadline being implemented in this rule. The departure requirements are the same as the current APIS arrival information.

Upon publication of this rule, travelers will not be admitted to the United States under the VWP unless they arrive on carriers that are electronically transmitting to the automated entry and exit control system, VWP passenger data that is sufficient to carry out the purpose of section 217(h) of the Act including the calculation of the percentage of nationals from each program country who received a waiver after arriving at a U.S. air or sea POE and for whom no record of departure exists.

#### **Why Is the Development and Implementatin of an Automated Entry and Exit Control System Important for Protecting the Integrity of the VWP?**

Controlling our borders requires collecting information regarding the movement of aliens in, through, and out of the United States. Such information allows the U.S. Government to make informed policy and management decisions, to identify and take action against those who violate the law, to locate individual aliens of interest to law enforcement entities, to track the immigration status of individual aliens so that only those eligible receive immigration benefits, and to keep out terrorists and other malafides. To meet these objectives Congress has mandated that the Service create an electronic Entry-Exit System. Developing an effective entry and exit control system to monitor VWP admissions and departures is a significant step in building this system. Additionally, advance manifests provide the Service with an opportunity to more thoroughly analyze information regarding persons from countries participating in the Visa Waiver program, who are seeking to enter into or depart from the United States upon arrival under the VWP and to identify individuals who may be inadmissible to the United States or otherwise of interest to the Service or another law enforcement agency. Submission of early advance passenger information also facilitates the ability of the Service to notify other law enforcement authorities that an arriving passenger on board may present a potential safety or security risk. Furthermore, the development of an automated entry and exit control system will allow the Service to fulfill the reporting requirements mandated by section 217(h)(1)(C) of the Act.

#### **For Which Passengers Must the Requested Information Be Transmitted Electronically on or After the Date of Publication of This Rule?**

Carriers must electronically transmit passenger arrival data in accordance with this regulation for every applicant for admission under the VWP that the carrier transports by air or sea to a U.S. port-of-entry on or after the date of publication of this rule. Carriers must electronically transmit passenger departure data in accordance with this regulation for every passenger who was admitted to the United States under the VWP that the carrier transports by air or sea from the United States to a foreign port or place on or after the date of publication of this rule. Carriers are only required to transmit departure passenger information for those departing VWP passengers who were admitted under the VWP after arriving at a port-of-entry via sea or air.

#### **What Are the Timeframes for the Electronic Transmission of the Required VWP Passenger Information?**

This rule provides final implementation for commercial carriers to submit the required VWP passenger arrival data to the Service electronically no later than 15 minutes after the flight or vessel has departed from the last foreign port or place. This is the current transmission requirement for air carriers submitting electronic arrival information under the APIS program and this requirement will also conform to the U.S. Customs Service's rule published at 66 FR 67482 (Dec. 31, 2001). This will allow the Service to check the requested information against appropriate law enforcement and security databases prior to the passenger's arrival. Carriers transporting passengers who were admitted under the VWP to points outside of the United States must electronically submit the required pasenger departure information to the Service no later than 15 minutes before the flight or vessel departs from the United States. If additional passengers board after the original manifest has been submitted, or if passengers exit after boarding but prior to departure, carriers will also be required to submit amended or updated passenger manifest information electronically to the Service no later than 15 minutes after the flight or vessel has departed from the United States.

#### **What Passenger Information Must Carriers Submit for Arriving and Departing VWP Passengers?**

This regulation specifically provides that the following information must be

electronically transmitted for each passenger seeking admission under the VWP or seeking to depart after having been admitted under the VWP:

- Passenger information;
  - Last Name;
  - First Name;
  - Middle name or middle initial;
  - Date of birth;
  - Gender or sex (F—Female; M—Male);
  - Nationality;
  - Document number;
  - Country of document issuance;
  - Document type (e.g., P=Passport, V=Visa, A=Alien registration card);
  - Flight or vessel information (Advanced Passenger Information (API) header message)
  - Airline International Air Transport Association (IATA) carried code or vessel name;
  - Airline flight number, or tail number for private or Corporate aircraft;
  - Date and time of scheduled flight or vessel arrival into the United States;
  - Date and time of scheduled flight or vessel departure from the United States;
  - Port of arrival;
  - Port of departure;
  - Contact name and number; and
  - Traveler status (e.g., P=Passenger, C=Crewmember).

For each arriving and departing VWP passenger, carriers will submit electronically only data elements that most carriers are already transmitting electronically under the Advanced Passenger Information System (APIS) Program administered jointly by the Service and the United States Customs Service and/or pursuant to section 115 of the Aviation and Transportation Security Act, Public Law 107-71. Accordingly carriers that electronically transmit complete and accurate passenger information in accordance with either the memorandum of understanding that governs the APIS program or section 115 of the Aviation Security Act will be in compliance with the passenger arrival information requirements of this regulation. In this light, it must be noted that effectively the only new requirement being implemented on current VWP carriers by promulgating this rule is that of submitting the prescribed data elements electronically prior to department as well as arrival.

#### **How Is the Required Information To Be Transmitted?**

The required data for each VWP passenger must be transmitted to the Service via the U.S. Customs Data Center, U.S. Customs Service Headquarters, by means of an electronic data interchange system that is approved by the U.S. Customs Service

in conjunction with the Service. Carriers that are not currently transmitting data via the U.S. Customs Data Center must contact the U.S. Customs Data Center, U.S. Customs Service Headquarters for technical guidance. All of the APIS data is currently transmitted to a centralized data base known as the Interagency Border Inspection System (IBIS), which is jointly operated and accessible by the Service and the U.S. Customs Service. IBIS allows all of the carriers to submit the electronic arrival and passenger information to one centralized location that meets both the service and the USCS's requirements.

#### **What Are the Penalties for Failure to Electronically Transmit the Required VWP Passenger Data Information?**

There are no fines provided for by section 217 of the Act; however, in cases where the carrier inexcusably fails to transmit an electronic record in accordance with this rule and an alien arrives without the necessary documentation needed for admission in the absence of the VWP, the Service may impose fines under section 273 of the Act. Prior to the Service issuing any fines, the Service will evaluate carriers on a Good Faith Effort, which will be based upon the following criteria: (1) The carrier notifies the Service of any technical or other issues in submitting the departure information; (2) the carrier has a backorder of the purchase of additional equipment, such as document readers; (3) the carrier is using an alternative temporary method such as, the U.S. Customs Service e-mail account, in lieu of the carrier's reservation system; (4) the carrier is utilizing a third party vendor as a temporary solution in lieu of the carrier's reservation system to transmit departure manifests; or (5) the totality of circumstances of each carrier to comply with this regulation. Additionally, the Service may seek to cancel the carrier's VWP contract for continued infractions that could include untimely as well as incomplete data. Finally, it should be noted that the Service may refuse admission under the VWP to aliens for whom the carrier has not electronically transmitted the required data elements.

#### **Will Carriers Who Submit VWP Passenger Data Elements in the Required Electronic Format Remain Responsible for the Submission of Passenger Manifests as Well?**

Yes. The obligation of carriers to submit information on VWP passengers in support of the automated entry exit control system mandated by section 217(h) of the Act is separate from a carrier's obligation to submit arrival and

departure manifests for all persons transported on commercial aircraft or vessels pursuant to section 231 of the Act. However, section 402 of the Enhanced Border Security Act of 2002 recently amended section 231 of the Act by mandating, among other things, that the manifest information required under section 231 must be transmitted electronically not later than January 1, 2003. The Service plans to publish a regulation implementing the manifest provisions of Public Law 107-173, including the electronic transmission requirement, shortly. It is the goal of the Service to develop a single procedure for the electronic transmission of passenger and crew arrival and departure information that will satisfy the requirements of both sections 217 and 231 of the Act.

#### **Good Cause Exception**

Implementation of this rule as an interim rule with provision for post-promulgation public comments is based upon the "good cause" exception found at 5 U.S.C. 553(b)(B). In accordance with section 217(h)(1)(B)(1) of the act, effective on the date of publication of this rule, no waiver may be provided under section 217 of the Act to an alien arriving by air or sea on a carrier unless the carrier is electronically transmitting passenger data determined by the Attorney General to be sufficient to permit the Attorney General to carry out his obligations under 217(h) of the Act. In addition, this regulation will provide the Service with valuable advanced information regarding persons who are arriving and departing the United States from air and sea ports-of-entry. Additionally, this information will allow the Service to better able to identify and monitor individuals who violate their immigration status. The electronic arrival and departure manifest will also enable the Service to determine overstay rates by Visa Waiver Countries. For these reasons, promulgation of this rule as a proposed rule would be contrary to the public interest.

#### **Regulatory Flexibility Act**

Because this regulation is not subject to the requirements of the notice and comment provisions of the Administrative Procedure Act for good cause noted above it is likewise not subject to the provisions of the Regulatory Flexibility Act. Should it become necessary, a regulatory flexibility analysis will be provided in connection with the promulgation of a final rule.

#### **Executive Order 12866**

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

All of the air carriers currently transmit arrival information electronically, however, it is unknown what the cost is to the airlines to reprogram their systems for departure manifests. However, a majority of carriers already collect passenger information during the passenger's arrival check-in process and this information is maintained in the reservation system. In addition, the ATA and IATA have not been able to provide cost estimates to the Service but expect most of the costs to be associated with reprogramming the carrier's existing reservation system to meet the departure requirement. Other costs may also include the purchase of additional document readers to scan travel documents. The price range of a document reader is approximately \$900.00 to \$2,000.00.

There will be additional staff hours if the departure manifest requirements are entered manually, however, most airlines already have automated systems, especially for the arrival APIS process. The U.S. Customs system also provides an e-mail account for carriers with no systems and is developing a Web account.

For carriers without reservation systems or APIS access, the USCS has developed an e-mail account to transmit and is also in the process of developing web APIS to allow carriers to transmit the electronic arrival and departure manifests. This option provides minimum costs to carriers who wish to utilize the e-mail or Web access. Third party vendors are also available to submit an electronic arrival or departure on the carrier's behalf.

#### **Executive Order 13132**

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

### Paperwork Reduction Act (PRA)

This interim rule requires that carriers collect and electronically transmit certain arrival and departure information concerning Visa Waiver Program passengers to the Service. This requirement is considered an information collection under the Paperwork Reduction Act. Accordingly, the Service has submitted an information collection request to the Office of Management and Budget (OMB) for emergency review and clearance in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

All comments and suggestions, or questions regarding additional information, should be directed to the Immigration and Naturalization Service, Regulations and Forms Services Division, 425 I Street NW., Room 4034, Washington, DC 20536; Attention: Richard A Sloan, Director, (202) 514-3291.

We request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Any comments on the information collection must be submitted on or before December 10, 2002. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of this information collection:

(1) *Type of information collection:* New.

(2) *Title of Form/Collection:* Visa Waiver Program Passenger Arrival and Departure Data.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No form number (File number OMB-32), Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Business or Individuals. Section 217(h) of the Immigration and Nationality Act (Pub. L. 106-396), requires that certain passenger data elements must be collected and electronically transmitted to the Immigration and Naturalization Service by carriers seeking to transport VWP passengers into and out of the United States on or after October 1, 2002. The information collection is necessary to ensure that the Service receives accurate passenger arrival and departure information in a timely manner.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 600 respondents at 10 minutes multiplied by 365 days.

(6) *An estimate of the total of public burden (in hours) associated with the collection:* Approximately 36,500 burden hours. This collection is OMB No. 1115-0255.

If additional information is required contact Richard A. Sloan, Director, (202) 514-3291.

#### List of Subjects in 8 CFR Part 217

Air Carriers, Aliens, Maritime carriers, Passports and Visas.

Accordingly, part 217 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

#### PART 217—VISA WAIVER PROGRAM

1. The authority citation for part 217 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1187; 8 CFR part 2.

2. Section 217.7 is added as follows:

#### § 217.7 Electronic data transmission requirement.

(a) *No waivers granted.* An alien who applies for admission under the provisions of the Visa Waiver Program pursuant to section 217 of the Act after arriving via sea or air at a port of entry will not be granted a waiver of the visa requirement of section 212(a)(7)(B)(i)(II) of the Act unless the carrier transporting such an alien is electronically transmitting the data required in paragraphs (b) and (c) of this section.

(b)(1) *Passenger arrival data.* Each carrier shall transmit the data elements set forth in paragraph (c) of this section for each passenger transported by the carrier under section 217 of the Act. The information must be transmitted to the Service via the U.S. Customs Data Center, U.S. Customs Service Headquarters, by means of an electronic data interchange system that is approved by the U.S. Customs Service in conjunction with the Service. The Service must receive the information for each passenger no later than 15 minutes after the flight or the vessel has departed from the last foreign port or place.

(2) *Passenger departure data.* Each carrier shall transmit the data elements set forth in paragraph (c) of this section for each passenger departing the United States aboard the carrier after having been admitted under section 217 of the act. The information must be transmitted to the Service via the U.S. Customs Data Center, U.S. Customs Service Headquarters by means of an electronic data interchange system that is approved by the U.S. Customs Service in conjunction with the Service. The Service must receive the information for each passenger no later than 15 minutes before the flight or vessel has departed from the United States. If additional passengers board after the original manifest has been submitted, or if passengers exit after boarding but prior to departure, carriers will also be required to submit amended or updated passenger manifest information electronically to the Service no later than 15 minutes after the flight or vessel has departed from the United States.

(c) *Required passenger and flight or vessel data elements.*

- (1) Last name.
- (2) First name.
- (3) Middle name or middle initial.
- (4) Date of birth.
- (5) Gender or sex (F=Female; M=Male).
- (6) Nationality.
- (7) Document number.
- (8) Country of document issuance.
- (9) Document type (e.g., P=Passport, V=Visa, A=Alien registration card).
- (10) Airline International Air Transport Association (IATA) carrier code or vessel name.
- (11) Airline flight number, or tail number for private or corporate aircraft;
- (12) Date and time of scheduled flight or vessel arrival into the United States.
- (13) Date and time of scheduled flight or vessel departure from the United States.
- (14) Port of arrival.
- (15) Port of departure.
- (16) Contact name and number.
- (17) Traveler status (e.g., P=Passenger, C=Crewmember).

Dated: October 7, 2002.

**James W. Ziglar,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 02-26027 Filed 10-10-02; 8:45 am]

**BILLING CODE 4410-10-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM231; Special Conditions No. 25-216-SC]

#### Special Conditions: Boeing Model 777-200 Series Airplanes; Overhead Crew Rest Compartments

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

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

**SUMMARY:** These special conditions are issued for Boeing Model 777-200 series airplanes. These airplanes, modified by Flight Structures Inc., will have a novel or unusual design feature associated with an overhead flightcrew rest compartment. 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 October 3, 2002.

Comments must be received on or before November 12, 2002.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration (FAA), Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM231, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM231. 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:** Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (425) 227-2195; facsimile (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

#### FAA's Determination as to Need for Public Process

The FAA has determined that notice and opportunity for prior public comment are unnecessary in accordance with 14 CFR 11.38, because the FAA has provided previous opportunities to comment on substantially identical special conditions, and has fully considered and addressed all the substantive comments received. Based on a review of the comment history and the comment resolution, the FAA is satisfied that new comments are unlikely. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

#### Comments Invited

Although this action is in the form of final special conditions, and for the reasons stated above, is not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to participate in this rulemaking by submitting 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 in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, 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 17, 2001, Flight Structures Inc., 4407 172 Street NE., Arlington, Washington, 98223, applied for a supplemental type certificate (STC) for installation of a Door 1 overhead flightcrew rest (OFCR) compartment in Boeing Model 777-200 series airplanes. The certification of the Alitalia Model 777-200 overhead crew rest is currently scheduled for October 9, 2002. The Boeing Model 777-200 series airplanes are large twin engine airplanes with various passenger capacities and ranges depending upon airplane configuration.

The OFCR compartment, adjacent to Door 1, is located in the overhead above the main passenger cabin and will include a maximum of two private berths, two seats, and a lavatory. Occupancy of the OFCR compartment will be limited to a maximum of four occupants.

The OFCR will be accessed from the main deck by stairs. In addition, an emergency hatch that opens directly into the main passenger cabin area will be provided for the compartment. A smoke detection system, an oxygen system, and occupant amenities will also be provided. This compartment will only be occupied in flight, not during taxi, takeoff, or landing.

Compliance with these proposed special conditions does not relieve the applicant from the existing airplane certification basis requirements. One particular area of concern is that the OFCR installation creates a smaller compartment volume within the overhead area of the airplane. The applicant must comply with the requirements of §§ 25.365(e), (f), and (g), for the overhead area compartment, as well as any other airplane compartments whose decompression characteristics are affected by the installation of a crew rest compartment. Compliance with § 25.831 must be