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Order 2002-10-11  
Served: October 8, 2002



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 8th day of October, 2002

Application of

**North American Airlines, Inc.**

for an Emergency Exemption from 14 C.F.R.  
§382.21(a)(1)

**Docket: OST-2002-13452**

**ORDER GRANTING CONDITIONAL EMERGENCY EXEMPTION**

**Summary**

By this order, we confirm our oral action of September 26, 2002, granting North American Airlines, Inc., ("North American") a conditional emergency exemption for aircraft N767NA (serial number 27569) from the moveable armrest requirement of 14 CFR §382.21(a)(1), through December 1, 2002.

**Background**

North American is a certificated air carrier that holds authority to engage in interstate and foreign scheduled and charter air transportation. The company is headquartered in Jamaica, New York.

On September 25, 2002, North American filed a petition for an emergency exemption for aircraft N767NA from 14 CFR §382.21(a)(1) during the period between October 3, 2002, and December 1, 2002. 14 CFR §382.21(a)(1), applies to ". . . new aircraft operated under 14 CFR part 121 and ordered by the carrier after April 5, 1990 or delivered to the carrier after April 5, 1992" and states that an "[a]ircraft with 30 or more passenger seats on which passenger aisle seats have armrests shall have movable aisle armrests on at least

one-half of passenger aisle seats.” North American filed the petition because, on August 14, 2002, it took delivery of the aircraft in question, which was previously operated by a non-U.S. airline.<sup>1</sup> North American was scheduled to begin flights for the Air Mobility Command (“AMC”) on October 3, 2002, for the purpose of transporting military passengers.

In support of its request, North American stated that the AMC has agreed to the use of aircraft N767NA beginning October 3, 2002, subject to the aircraft’s modification to comply with 14 CFR §382.21(a)(1) by December 1, 2002. Furthermore, North American stated that a service bulletin for the modification has been received and the parts have been ordered. Finally, North American stated that during the exemption period, in the event a disabled passenger is transported by AMC on aircraft N767NA, North American would accommodate the passenger in the forward cabin in seats C, D, or E where there are retractable armrests.

### **Decision**

Upon review of the carrier’s application, we decided to grant North American’s request for an emergency exemption from 14 CFR §382.21(a)(1), with conditions, and orally informed the carrier of our decision on September 26, 2002. In reaching this decision, we found that granting North American an emergency exemption from the provision requiring moveable armrests on one-half of the aisle seats, with conditions, is consistent with the public interest, particularly considering the short duration of the exemption and the military’s need for the aircraft. By this order, we confirm our oral action of September 26, 2002, granting North American’s application, subject to the conditions specified below.

**ACCORDINGLY**, acting under authority assigned by the Department in its Regulations, 14 CFR §385.12 and 49 CFR 1.56a(f):

1. We confirm our oral action of September 26, 2002, and exempt North American’s aircraft N767NA from the provisions of 14 CFR §382.21(a)(1) subject to the conditions listed in paragraphs 2-4;
2. North American must operate aircraft N767NA, serial number 27569, from October 3, 2002, through December 1, 2002, solely for the purpose of transporting passengers on behalf of the Air Mobility Command;
3. North American must retrofit aircraft N767NA, serial number 27569, with moveable armrests on at least one-half of the aisle seats, in compliance with 14 CFR §382.21(a)(1), by December 1, 2002;

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<sup>1</sup> Presently, 14 CFR Part 382 does not apply to foreign air carriers. As a result, although the aircraft was ordered by the foreign air carrier after April 5, 1990, the foreign air carrier did not have a legal obligation to ensure that the aircraft have movable aisle armrests on at least one-half of passenger aisle seats.

4. North American must accommodate passengers with disabilities requiring an aisle seat on aircraft N767NA, serial number 27569, with a moveable armrest to the extent practical, during the exemption period; and
5. We will serve a copy of this order on North American.

The action in this order was effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:



**READ C. VAN DE WATER**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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