

(e) This amendment becomes effective on October 28, 1998.

Issued in Renton, Washington, on September 14, 1998.

**Dorenda D. Baker,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 94-NM-89-AD; Amendment 39-10785; AD 98-20-19]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier Model DHC-8-100 and -300 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC-8-100 and -300 series airplanes, that requires inspections to detect corrosion on areas of the airplane structure where black film thermal insulation is used; repair, if necessary; and replacement of black insulation blankets with certain aluminized (silver) insulation. This amendment is prompted by reports of corrosion forming on areas of the airplane structure where the black film covers the thermal insulation blankets. The actions specified by this AD are intended to prevent degradation of the structural capability of the airplane fuselage and sudden loss of cabin pressure due to corrosion of the airplane fuselage structure.

**DATES:** Effective October 28, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 1998.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street,

Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jon Hjelm, Aerospace Engineer, Airframe Branch, ANE-172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7523; fax (516) 568-2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC-8-100 and -300 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on March 28, 1996 (61 FR 13785). That supplemental NPRM proposed to require inspections to detect corrosion on areas of the airplane structure where black film thermal insulation is used; repair, if necessary; and replacement of black insulation blankets with certain aluminized (silver) insulation.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed AD.

As proposed, paragraph (a) of the supplemental NPRM would require a determination from airplane modification records as to whether any of the retrofit kits listed in the applicable service bulletin have been installed. If any have been installed, that paragraph also would require removal of the black film insulation blanket and inspection of the affected areas "prior to further flight." One commenter believes that this compliance time of "prior to further flight" is too restrictive, since the airplane could be in operation at the time the modification records are consulted. The commenter requests that the supplemental NPRM be reworded to allow a records search to determine which aircraft have had the retrofit kits installed, and that the inspection for black insulation be completed within a compliance time of one year. The commenter adds that subsequent repairs could be accomplished prior to further flight. The commenter states that this would allow the required inspections to be carried out coincidentally with scheduled major airplane inspection and maintenance activities, thereby

minimizing costs associated with special airplane scheduling.

The FAA concurs that paragraph (a), as proposed, would be more restrictive than intended. The FAA has revised paragraph (a)(1)(ii) of this final rule to require removal of the insulation and inspection of the affected areas within one year after the effective date of the AD, rather than immediately after the records are searched. Depending on how early the records are searched, an operator will have as much as one year following the search in which to accomplish the required insulation removal and inspections. Any corrosion found will be required to be repaired prior to further flight in accordance with paragraph (a)(1)(ii)(A) or (a)(1)(ii)(B), regardless of when the inspection is accomplished.

Another commenter notes that compliance with the proposed requirements of paragraph (b) would make paragraph (a) redundant, and asks that paragraph (a) be revised (1) to state that it does not apply to airplanes on which the service bulletins specified in paragraph (b) have been accomplished, and (2) to specify the serial numbers of affected airplanes as Series 100 serial numbers 003-179, and Series 300 serial numbers 100-138. The commenter states that all areas of the airplane are inspected, and all black insulation is removed during accomplishment of the applicable service bulletins referenced in paragraph (b) of the supplemental NPRM.

The FAA concurs partially with the commenter's remarks. The FAA has revised paragraph (a) of this final rule and has added a new paragraph (c) to specify that compliance with paragraph (a) is only necessary if compliance with paragraph (b) has not been accomplished. However, the FAA does not agree that specifying the serial numbers of affected airplanes in paragraph (a) of the AD, as suggested by the commenter, is necessary. Paragraph (a) of the supplemental NPRM specifies that the affected airplanes are those listed in Bombardier Service Bulletin S.B. 8-21-68, dated July 20, 1994. The FAA has verified with the manufacturer that the serial numbers listed in that service bulletin are the appropriate serial numbers of affected airplanes. (The service bulletin specifies the affected airplanes as those having serial numbers 003 through 381 inclusive.) Therefore, no change to paragraph (a) of the final rule is necessary in this regard.

As proposed, paragraph (a)(1)(ii)(B) would require repair of corrosion beyond the limits specified in the service bulletin in accordance with a method approved by the FAA. One

commenter requests that the supplemental NPRM allow repairs approved by the manufacturer, since this would allow the use of the manufacturer's repair drawings without any further approval. The FAA does not concur, since to do so would be delegating its rulemaking authority to the manufacturer.

Another commenter also requests that paragraph (b) be revised to permit compliance with any previous revision of the referenced service bulletins to eliminate unnecessary filing for approval of alternative methods of compliance by operators. The FAA does not concur, since previous revisions of the service bulletin are not immediately available for review by the FAA. The FAA does not consider that further delay of this action until such time as the service bulletin revisions could be received and reviewed is warranted in light of the amount of time that has already passed since the issuance of the original NPRM. No change has been made to the final rule in this regard.

The final rule has been revised to change the manufacturer's name from de Havilland, Inc., to Bombardier, Inc.

#### Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

#### Cost Impact

The FAA estimates that 125 Model DHC-8-100 and -300 series airplanes of U.S. registry will be affected by this AD,

that it will take approximately 650 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. (Work hours associated with the actions described in Service Bulletin S.B. 8-21-68 cannot be estimated at this time since exact numbers of the retrofit kits installed are unknown.) However, the FAA has been advised that the manufacturer will provide required parts and accomplish the required modification at no expense to operators. Therefore, there is no cost impact to U.S. operators that is associated with this rule with regard to labor charges or parts costs.

The FAA does recognize, however, that while operators may incur administrative costs associated with compliance to this rule, the one-year compliance time specified in paragraphs (a) and (b) of this proposed AD should allow ample time for the requirements to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

#### Regulatory Impact

The regulations adopted herein 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 Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**98-20-19 Bombardier, Inc. (Formerly de Havilland, Inc.):** Amendment 39-10785. Docket 94-NM-89-AD.

**Applicability:** Model DHC-8-100 and -300 series airplanes, equipped with black Orcon film insulation, certificated in any category; and listed in the following Bombardier Service Bulletins:

DHC-8 Models	Service Bulletin No.	Revision level	Date
102, 103, and 106 .....	S.B. 8-25-89	E	July 6, 1994.
102, 103, and 106 .....	S.B. 8-25-90	C	July 5, 1994.
102, 103, 106, 301, 311, and 314 .....	S.B. 8-25-91	D	July 20, 1994.
301, 311, and 314 .....	S.B. 8-25-92	E	July 20, 1994.
301, 311, and 314 .....	S.B. 8-25-93	C	July 20, 1994.
102, 103, 106, 301, 311, and 314 .....	S.B. 8-21-68		July 20, 1994.
102, 103, 301, 311, and 314 .....	S.B. 8-21-66	C	Mar. 24, 1995.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in

accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent degradation of the structural capability of the airplane fuselage and sudden loss of cabin pressure due to corrosion of the airplane fuselage structure, accomplish the following:

(a) For airplanes listed in Bombardier Service Bulletin S.B. 8-21-68, dated July 20, 1994: Except as provided by paragraph (c) of this AD, within one year after the effective

date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Determine from the airplane modification records whether any of the retrofit kits listed in the service bulletin have been installed in the airplane, in accordance with the service bulletin.

(i) If no kit has been installed, no further action is required by this paragraph.

(ii) If any kit has been installed, within one year after the effective date of this AD, remove any black film insulation blanket, and perform a visual inspection to detect corrosion of all airplane structure in contact with the black insulation, in accordance with the service bulletin.

(A) If any corrosion is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with the service bulletin.

(B) If any corrosion is found that is beyond the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the New York Aircraft Certification Office (ACO), ANE-170, FAA Engine and Propeller Directorate.

(2) Install the AN4C aluminized (silver) film insulation in accordance with the service bulletin.

(b) Within one year after the effective date of this AD, accomplish the requirements of paragraph (b)(1), (b)(2), and (b)(3) of this AD, in accordance with the following Bombardier service bulletins, as applicable.

S.B. 8-25-89, Revision E, dated July 6, 1994;  
S.B. 8-25-90, Revision C, dated July 5, 1994;  
S.B. 8-25-91, Revision D, dated July 20, 1994;

S.B. 8-25-92, Revision E, dated July 20, 1994;

S.B. 8-25-93, Revision C, dated July 20, 1994; or

S.B. 8-21-66, Revision C, dated March 24, 1995.

(1) Remove any black Orcon film insulation from the flight compartment and forward fuselage of the airplane, the passenger compartment, the air conditioning ducts, and the delivery and recirculation ducts of the air conditioning system in the rear fuselage, in accordance with the applicable service bulletin.

(2) Perform a visual inspection to detect corrosion of all airplane structure in contact with the black insulation, in accordance with the applicable service bulletin.

(i) If any corrosion is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with the applicable service bulletin.

(ii) If any corrosion is found that is beyond the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, New York ACO.

(3) Install the AN4C aluminized (silver) film insulation in accordance with the applicable service bulletin.

(c) Airplanes on which the actions required by paragraph (b) of this AD are performed prior to accomplishment of the actions required by paragraph (a) of this AD are not required to accomplish the actions required by paragraph (a).

(d) As of the effective date of this AD, no person shall install black Orcon film

insulation, part number AN46B/AN36B, on any airplane.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with the following Bombardier service bulletins:

Service bulletin No.	Revision level	Date
S.B. 8-21-68 .....	Original	July 20, 1994.
S.B. 8-25-89 .....	E	July 6, 1994.
S.B. 8-25-90 .....	C	July 5, 1994.
S.B. 8-25-91 .....	D	July 20, 1994.
S.B. 8-25-92 .....	E	July 20, 1994.
S.B. 8-25-93 .....	C	July 20, 1994.
S.B. 8-21-66 .....	C	Mar. 25, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directives CF-94-25R1 and CF-94-26R1, both dated June 30, 1995.

(h) This amendment becomes effective on October 28, 1998.

Issued in Renton, Washington, on September 14, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98-25120 Filed 9-22-98; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 10

[Docket No. 98N-0361]

#### Administrative Practices and Procedures; Internal Agency Review of Decisions

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** The Food and Drug Administration (FDA) published in the **Federal Register** of June 16, 1998 (63 FR 32733), a direct final rule to implement the new Dispute Resolution provision of the Federal Food, Drug, and Cosmetic Act, as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA). The comment period closed on August 31, 1998. FDA is withdrawing the direct final rule because the agency received significant adverse comment.

**EFFECTIVE DATE:** The direct final rule published at 63 FR 32733, June 16, 1998, is withdrawn on September 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Suzanne M. O'Shea, Office of the Chief Mediator and Ombudsman (HF-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3390.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, the direct final rule published on June 16, 1998, at 63 FR 32733 is withdrawn.

Dated: September 16, 1998.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 98-25363 Filed 9-22-98; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8783]

RIN 1545-AW45

#### Continuity of Interest Requirement for Corporate Reorganizations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Amendment to final regulations.