

“certifying agents to demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart” including the prohibition on discrimination. The granting of accreditation to certifying agents under section 205.506 requires the review of information submitted by the certifying agent and an on-site review of the certifying agent’s operation. Further, if certification is denied, section 205.405(d) requires that the certifying agent notify the applicant of their right to file an appeal to the AMS Administrator in accordance with section 205.681. These regulations provide protections against discrimination, thereby permitting all handlers, regardless of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status, who voluntarily choose to adhere to the final rule and qualify, to be certified as meeting NOP requirements by an accredited certifying agent. This final rule in no way changes any of these protections against discrimination.

#### List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205 is amended as follows:

#### PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

**Authority:** 7 U.S.C. 6501–6522.

■ 2. Section 205.670 is revised to read as follows:

**§ 205.670 Inspection and testing of agricultural products to be sold or labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).”**

(a) All agricultural products that are to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must be made accessible by certified organic production or handling operations for examination by the Administrator, the applicable State organic program’s governing State official, or the certifying agent.

(b) The Administrator, applicable State organic program’s governing State official, or the certifying agent may

require preharvest or postharvest testing of any agricultural input used or agricultural product to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods. Samples may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples. Such tests must be conducted by the applicable State organic program’s governing State official or the certifying agent at the official’s or certifying agent’s own expense.

(c) A certifying agent must conduct periodic residue testing of agricultural products to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” Samples may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples. Such tests must be conducted by the certifying agent at the certifying agent’s own expense.

(d) A certifying agent must, on an annual basis, sample and test from a minimum of five percent of the operations it certifies, rounded to the nearest whole number. A certifying agent that certifies fewer than thirty operations on an annual basis must sample and test from at least one operation annually. Tests conducted under paragraphs (b) and (c) of this section will apply to the minimum percentage of operations.

(e) Sample collection pursuant to paragraphs (b) and (c) of this section must be performed by an inspector representing the Administrator, applicable State organic program’s governing State official, or certifying agent. Sample integrity must be maintained throughout the chain of custody, and residue testing must be performed in an accredited laboratory. Chemical analysis must be made in accordance with the methods described in the most current edition of the *Official Methods of Analysis of the AOAC International* or other current applicable validated methodology for determining the presence of contaminants in agricultural products.

(f) Results of all analyses and tests performed under this section will be available for public access, unless the testing is part of an ongoing compliance investigation.

(g) If test results indicate a specific agricultural product contains pesticide

residues or environmental contaminants that exceed the Food and Drug Administration’s or the Environmental Protection Agency’s regulatory tolerances, the certifying agent must promptly report such data to the Federal health agency whose regulatory tolerance or action level has been exceeded. Test results that exceed federal regulatory tolerances must also be reported to the appropriate State health agency or foreign equivalent.

Dated: November 5, 2012.

**David R. Shipman,**  
Administrator, Agricultural Marketing Service.

[FR Doc. 2012–27378 Filed 11–8–12; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA–2012–1194; Special Conditions No. 25–472–SC]

#### Special Conditions: Boeing Model 757 Series Airplanes; Seats with Non-Traditional, Large, Non-Metallic Panels

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

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

**SUMMARY:** These special conditions are issued for the Boeing Model 757 series airplanes. These airplanes as modified by Flight Structures, Inc. will have novel or unusual design features associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. 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 November 5, 2012. We must receive your comments by December 24, 2012.

**ADDRESSES:** Send comments identified by docket number [FAA–2012–1194] using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov/> and follow the online instructions for sending your comments electronically.

*Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey

Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.

**Hand Delivery or Courier:** Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.

**Fax:** Fax comments to Docket Operations at 202-493-2251.

**Privacy:** The FAA will post all comments it receives, without change, to <http://www.regulations.gov/>, including any personal information the commenter provides. Using the search function of the docket web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov/>.

**Docket:** Background documents or comments received may be read at <http://www.regulations.gov/> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Shelden, FAA, Airframe and Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone 425-227-2785; facsimile 425-227-1232; email [John.Shelden@faa.gov](mailto:John.Shelden@faa.gov).

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

We invite interested people to take part in this rulemaking by sending written 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 will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

#### Background

On April 5, 2012, Flight Structures, Inc. applied for a supplemental type certificate for installing seats that include non-traditional, large, non-metallic panels in Boeing Model 757 series airplanes. The Boeing Model 757 series airplanes, currently approved under Type Certificate No. A2NM, are swept-wing, conventional tail, twin-engine, turbo-fan-powered, single aisle, medium-sized transport category airplanes.

The applicable regulations to airplanes currently approved under Type Certificate No. A2NM do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then-recently-adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14, Code of Federal Regulations (14 CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

#### Type Certification Basis

Under the provisions of § 21.101, Flight Structures, Inc. must show that the Boeing Model 757 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A2NM 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 Type Certificate No. A2NM are as follows:

For Boeing Model 757-200 series airplanes—part 25, as amended by Amendment 25-1 through Amendment 25-45. In addition, an equivalent safety finding exists with respect to § 25.853(c), Compartment interiors.

For Boeing Model 757-300 series airplanes—part 25, as amended by Amendment 25-1 through Amendment 25-85 with the exception listed: Section 25.853(d)(3), Compartment interiors, at Amendment 25-72.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 757 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 757 series airplanes 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 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

#### Novel or Unusual Design Features

The Boeing Model 757 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25-61 and Amendment 25-66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety

standards for seat designs that incorporate non-traditional, large, non-metallic panels in their designs. In order to provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors, and shrouds.

#### Clarification of "Exposed"

"Exposed" is considered to include panels that are directly exposed to the passenger cabin in the traditional sense, and panels that are enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

#### Discussion

In the early 1980s, the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, the FAA adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (i.e., § 25.853 titled "Compartment interiors" as amended by Amendment 25-61 and Amendment 25-66) extend survival time by

approximately two minutes over materials that do not comply.

At the time these standards were written, the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements therefore did not address seats. The preambles to both the Notice of Proposed Rule Making, Notice No. 85-10 (50 FR 15038, April 16, 1985) and the Final Rule at Amendment 25-61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded "because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats."

Subsequently, the Final Rule at Amendment 25-83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: "It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made."

In the late 1990s, the FAA issued Policy Memorandum 97-112-39, Guidance for Flammability Testing of Seat/Console Installations, October 17, 1997. That memo was issued when it became clear that seat designs were evolving to include large, non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat.

If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that

incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in § 25.853(d) to seats with large, non-metallic panels in their design.

#### Applicability

As discussed above, these special conditions are applicable to the Boeing Model 757 series airplanes. Should Flight Structures, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A2NM to incorporate 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 the Boeing Model 757 series of airplanes. 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. Therefore, 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 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 Boeing Model 757 series airplanes modified by Flight Structures, Inc.

#### Seats With Non-Traditional, Large, Non-Metallic Panels

1. Except as provided in paragraph 3 of these special conditions, compliance with 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate non-traditional, large, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of 14 CFR part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

- a. Airplanes with passenger capacities of 19 or less,
- b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR 121.312, and
- c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

Issued in Renton, Washington, on November 5, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–27370 Filed 11–8–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2012–0806; Directorate Identifier 2012–NM–022–AD; Amendment 39–17243; AD 2012–22–07]

RIN 2120–AA64

#### Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes. This AD was prompted by reports of an in-service incident where the propeller de-icing system became unavailable due to burnt/chafed wires within the alternating current contactor box (ACCB). This AD requires inspection for chafing, damage, and loose wiring within an ACCB and repair if necessary; and requires rework and re-identification of the wiring installation within each ACCB. We are issuing this AD to detect and correct damaged, chafed, or loose wiring within an ACCB, which could affect the operation of the windshield heater, ice detector, angle of attack (AOA) vane heater, pilot probe heater, engine intake heater, or propeller de-icing system, and subsequently adversely affect the airplane's flight characteristics in icing conditions.

**DATES:** This AD becomes effective December 14, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 14, 2012.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Assata Dessaline, Aerospace Engineer, Avionics and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7301; fax (516) 794–5531.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 16, 2012 (77 FR 49394). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

There has been one (1) reported in-service incident where the propeller de-icing system became unavailable due to burnt/chafed wires within the Alternating Current Contactor Box (ACCB). There has also been a number of additional minor events of wires found chafed within ACCBs.

An investigation revealed that inadequate clearance between the wires and metallic structure within the ACCB could cause chafed wires.

Damaged, chafed or loose wiring within an ACCB could affect the operation of the windshield heater, ice detector, angle of attack (AOA) vane heater, pitot probe heater, engine intake heater or propeller de-icing system. Loss of one of these systems could adversely affect the aeroplane's flight characteristics in icing conditions.

This [Transport Canada Civil Aviation (TCCA)] Airworthiness Directive (AD) mandates the [visual] inspection [for damaged, chafed, and loose wiring within an ACCB and replace if necessary] and rectification [rework] of the wiring installation within each ACCB.

You may obtain further information by examining the MCAI in the AD docket.

#### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 49394, August 16, 2012) or on the determination of the cost to the public.

#### Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed—except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 49394, August 16, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 49394, August 16, 2012).

#### Costs of Compliance

We estimate that this AD will affect 83 products of U.S. registry. We also estimate that it will take about 7 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$49,385, or \$595 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing \$0, for a cost of \$170 per product. We have no way of determining the number of products that may need these actions.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more