

standards for flammability of seat cushions will greatly inhibit involvement of the seats.”

In the late 1990s, 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 compared to partitions or galleys, the FAA issued Policy Memorandum 97–112–39. This 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 would have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin-fire event.

Applicability

As discussed above, these special conditions are applicable to the ERJ 190–100. Should Embraer 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.

As discussed above, these special conditions are applicable to Embraer ERJ 190–100 series airplanes. It is not our intent, however, to require seats with non-traditional, large, non-metallic panels to meet § 25.853, which calls out appendix F, parts IV and V, if they are installed in cabins of airplanes that otherwise are not required to meet these standards. Because the heat-release and smoke-emission testing requirements of § 25.853, per appendix F, parts IV and V, are not part of the type-certification basis of the Model ERJ 190–100, these special conditions are only applicable if the Model ERJ 190–100 series airplanes are in 14 CFR part 121 operations. Section 121.312 requires compliance with the heat-release and smoke-emission testing requirements of § 25.853, for certain airplanes, irrespective of the type-certification bases of those airplanes. For Model ERJ 190–100 series airplanes, these are the airplanes that would be affected by these special conditions. Should Embraer apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A57NM, 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 one model-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.

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 return-to-service date for the Embraer ERJ 190–100 series airplane 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 Embraer ERJ 190–100 series airplanes.

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 be either 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 (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 fewer,
- 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 June 29, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19071 Filed 8–3–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM431; Special Conditions No. 25–409–SC]

Special Conditions: Bombardier Inc. Model CL–600–2E25 Series Airplane; Passenger Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Inc. Model CL–600–2E25 Series Airplane. These airplanes will have a novel or unusual design feature 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 July 27, 2010. We must receive your comments by September 20, 2010.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM431, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM431. You can inspect comments 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 98057–3356; telephone (425) 227–2195;

facsimile (425) 227-1232; e-mail alan.sinclair@faa.gov.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of and opportunity for prior public comment on these special conditions is impracticable and would significantly delay issuance of the design approval and thus delivery of the affected aircraft. The substance of these special conditions has previously been subject to the public-comment process and received no substantive comments. 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 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 self-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 28, 2007, Bombardier Inc., 400 Cote Vertu West, Dorval, Quebec, Canada, H4S 1Y9, applied for an amended type certificate for the Bombardier Model CL-600-2E25 airplane to be identified on Type Certificate Data Sheet (TCDS) No. A21EA. The Model CL-600-2E25 series airplane will be a swept-wing, T-tail, twin-engine, fuselage-mounted turbofan-powered, single-aisle, medium-sized, transport-category airplane.

The applicable airplane regulations, currently approved under Title 14, Code

of Federal Regulations (14 CFR) part 25, 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 part 25, Appendix F, parts IV and V, heat-release and smoke-emission requirements.

Type Certification Basis

Under provisions of 14 CFR 21.17, Bombardier must show that the Model CL-600-2E25 series airplane meets the applicable provisions of part 25, as amended by Amendments 25-1 through 25-119. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model CL-600-2E25 airplane because of a novel or unusual design feature, special conditions are prescribed under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model CL-600-2E25 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. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92-574, the "Noise Control Act of 1972." Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2).

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 or similar novel

or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The Model CL-600-2E25 series airplanes will incorporate the following novel or unusual design feature: 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 occupants of the cabin in the event 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. To provide a level of safety equivalent to that provided by 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.

Definition of "Non-Traditional, Large, Non-Metallic Panel"

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, and 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, and video monitors and shrouds.

Clarification of "Exposed"

"Exposed" is considered to include those panels directly exposed to the passenger cabin in the traditional sense, plus those panels 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 entitled "Compartment interiors" as amended by Amendment 25-61 and Amendment 25-66) extend survival time by approximately 2 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 contained only small amounts of non-metallic materials. The FAA 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 (NPRM), 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 (<http://rgl.faa.gov>). 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, the FAA examined the appropriate flammability standards for passenger seats installed on transport-category airplanes that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The FAA 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. The FAA has determined that special conditions would be issued to apply the standards defined in § 25.853(d) to seats with large, non-metallic panels in their design.

Applicability

Because the heat-release and smoke-emission testing requirements of § 25.853 are part of the type certification basis for the Model CL-600-2E25 series airplane, these special conditions are applicable to the Model CL-600-2E25 series airplane. Should Bombardier 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.

Seats do not have to meet these special conditions when installed in compartments that are not otherwise required to meet the test requirements of part 25, Appendix F, parts IV and V. This includes, for example, airplanes that do not have § 25.853, Amendment 25-61 or later, in their certification basis and those airplanes that do not need to comply with the requirements of § 121.312.

Conclusion

This action affects only certain novel or unusual design features on Bombardier Inc. Model CL-600-2E25 series airplanes. It is not a rule of general applicability.

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, the FAA has determined that prior public notice and comment are unnecessary, 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 Bombardier Inc. Model CL-600-2E25 series airplane.

1. Except as provided in special condition number 3, below, compliance with heat-release and smoke-emission testing requirements per § 25.853, and Appendix F, parts IV and V, is required for seats that incorporate non-traditional, large, non-metallic panels that may be either 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 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 § 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat-certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet, and follow-on deliveries of airplanes with previously certificated interiors, are not affected.

Issued in Renton, Washington, on July 27, 2010.

Ali Bahrami,

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

[FR Doc. 2010–19072 Filed 8–3–10; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 120

RIN 1400–AC63

[Public Notice: 7075]

Amendment to the International Traffic in Arms Regulations: Commodity Jurisdiction

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to address electronic submission of a request for a commodity jurisdiction determination using “Commodity Jurisdiction (CJ) Determination Form” (Form DS–4076).

DATES: *Effective Date:* This rule is effective August 4, 2010.

FOR FURTHER INFORMATION CONTACT: Director Charles Shotwell, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail DDTCResponseTeam@state.gov. ATTN: Regulatory Change, Part 120.

SUPPLEMENTARY INFORMATION: A new form entitled “Commodity Jurisdiction (CJ) Determination Form” (Form DS–4076) has been added to the listing of forms at 22 CFR 120.28(a)(8). This form was made available via the Directorate of Defense Trade Controls’ (DDTC) Web site (<http://www.pmdtdc.state.gov>) for public use on a trial basis (as well as comment) on September 30, 2009. As

already noted in form DS–4076, information contained in the description block (Block 5) (exclusive of information legitimately identified as proprietary in Block 15) will be used in DDTC’s published Commodity Jurisdiction determinations list, to be available on the DDTC Web site. Also, 22 CFR 120.4(a) is amended to state that the “Commodity Jurisdiction (CJ) Determination Form” must be electronically submitted to DDTC. For twenty-nine (29) days after the effective date of this final rule, a request for a commodity jurisdiction determination may be submitted electronically or via a paper format. After thirty (30) days from the effective date of this final rule, electronic submission via the “Commodity Jurisdiction (CJ) Determination Form” (Form DS–4076) will be mandatory. Additionally, § 120.4(c) was amended to eliminate the instruction to submit seven collated sets of supporting documentation.

Regulatory Analysis and Notices

Administrative Procedure Act

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

Regulatory Flexibility Act

Since this amendment involves a foreign affairs function of the United States, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This amendment does not involve a mandate that will 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 year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning

of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment 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 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

Executive Order 12866

This amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

Executive Order 12988

The Department of State has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act

This collection was approved under OMB Control Number 1405–0163. This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 120

Arms and munitions, Classified information, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 120 is amended as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; E.O. 11958, 42 FR 4311; E.O. 13284, 68 FR 4075; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920.

■ 2. Section 120.4 is amended by revising paragraphs (a) and (c) to read as follows: