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 of 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-emission requirements. We have 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

As discussed above, these special conditions are applicable to Airbus Model A330 series airplanes. Although the heat-release and smoke-emission testing requirements of § 25.853, per Appendix F, parts IV and V, are not part of the part 25 certification basis for the Airbus Model A330 series airplanes, these special conditions are applicable if the airplanes are in 14 CFR part 121 service. Part 121 requires applicable interior panels to comply with § 25.853, Appendix F, parts IV and V, regardless of the certification basis. It is not our intent to require seats with large, non-metallic panels to meet § 25.853, Appendix F, parts IV and V, if they are installed in cabins of airplanes that otherwise are not required to meet these standards. Should Airbus 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.

Conclusion

This action affects only certain novel or unusual design features on Airbus Model A330 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 Airbus Model A330 series airplanes.

1. 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. Traditional panels are exempted.

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 No. 1. 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 sq. ft.; middle, 1 sq. ft.; and inboard, 2.5 sq. ft.).

3. Seats need not 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 smoke-and-heat release in their certification basis, and do not need to comply with the requirements per 14 CFR 121.312,

c. Airplanes exempted from smoke-and-heat-release requirements.

4. The applicability requirements fall into two categories: either new-seat certification program or previously certified. New-seat certification programs must meet the special conditions, previously certified are not required to.

Issued in Renton, Washington, on December 28, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–31118 Filed 12–31–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM421; Special Conditions No. 25–397–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 conditions; request for comments.

SUMMARY: These special conditions are issued for Boeing Model 757 series airplanes. These airplanes, as modified by Continental Airlines, Inc., 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 December 18, 2009. We must receive your comments by February 18, 2010.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM421, 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. NM421. 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: John Shelden, FAA, Airframe/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.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Seats With Non-Traditional, Large, Non-Metallic Panels

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 return to service 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.

We anticipate that seats with non-traditional, large, non-metallic panels will be installed in other makes and models of airplanes. We have made the determination to require special conditions for all applications requesting the installation of seats with non-traditional, large, non-metallic panels until the airworthiness requirements can be revised to address this issue. Having the same standards across the range of airplane makes and models will ensure consistent ruling for the aviation industry.

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 may change these special conditions based on the comments we receive.

If you want us to acknowledge receipt of your comments on these special conditions, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

Background

On, April 9, 2009, Continental Airlines, Inc., 600 Jefferson St. HQJEG 13th Floor, Houston, TX 77002, applied for a supplemental type certificate for installing seats that include non-traditional, large, non-metallic panels in a Boeing Model 757 series airplane. The Boeing Model 757 series airplanes, currently approved under Type Certificate No. A2NM, are swept-wing, conventional-tail, twin-engine, turbofan-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, their 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 14 CFR 21.101, Continental Airlines, 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 Model 757–200 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 Model 757–300 airplanes: part 25, as amended by Amendment 25–1 through Amendment 25–85, with the exception of § 25.853(d)(3), Compartment interiors, at Amendment 25–72.

In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 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.

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 and 11.38, and they become part of the type certification basis under § 21.101.

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 or similar novel or unusual design

feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Boeing Model 757 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 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. 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, we 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 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 included only small amounts of non-metallic materials. We determined that the overall effect of these materials on survivability was negligible, whether or not the food trays met the heat-release and smoke-emission 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.''

On October 17, 1997, the FAA issued Policy Memorandum 97–112–39, *Guidance for Flammability Testing of Seat/Console Installations,* (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include non-traditional, 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, we focused attention on the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional fabric-covered metal. 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 issued to apply the standards defined in § 25.853(d) to seats designed with non-traditional, large, non-metallic panels.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 757 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 757, these special conditions are only applicable if the Model 757 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 757 series airplanes, these are the airplanes that would be affected by these special conditions. Should Continental Airlines, 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 one model-series of airplanes. It is not a rule of general applicability and it 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 Boeing Model 757 series airplane, modified by Continental Airlines, Inc., 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 Boeing Model 757 series airplanes modified by Continental Airlines, Inc.

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 (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 December 18, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–31121 Filed 12–31–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0602; Airspace Docket No. 09–AEA–13]

Establishment of Class E Airspace; Spencer, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of a direct final rule published in the Federal Register that establishes Class E Airspace at Spencer, WV. This action enhances the safety and airspace management of Boggs Field Airport, Spencer, WV.

DATES: Effective 0901 UTC, December 17, 2009. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Confirmation of Effective Date

The FAA published a direct final rule with request for comments establishing Class E Airspace at Boggs Field Airport, Spencer, WV, in the **Federal Register** on October 19, 2009 (74 FR 53407), Docket No. FAA–2009–0602; Airspace Docket No. 09–AEA–13. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 17, 2009. No adverse comments were received, and thus this notice confirms that effective date.

* * * * *

Issued in College Park, Georgia, on December 15, 2009.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9–30801 Filed 12–31–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0203; Airspace Docket No. 09–ASO–12]

Modification of Class D and E Airspace; Albemarle, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date; correction.

SUMMARY: This action confirms the effective date of a direct final rule published in the **Federal Register** May 6, 2009, that modifies Class D and Class E airspace at Stanly County Airport, Albemarle, NC. This action also corrects the True bearing used in the Class D airspace description that was stated incorrectly.

DATES: Effective 0901 UTC, February 11, 2010. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5610, Fax 404–305–5572.

SUPPLEMENTARY INFORMATION:

History

The rule modifying Class D and E airspace for Stanly County Airport, Albemarle, NC, published in the **Federal Register** May 6, 2009 (74 FR