

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2023-0161; Project Identifier MCAI-2022-01434-T; Amendment 39-22331; AD 2023-03-06]

RIN 2120-AA64

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

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes. This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G C-Band), and a recent determination that this interference can result in unavailable or misleading radio altimeter information, adversely affecting the performance of the automatic flight control system (AFCS) and resulting in increased flightcrew workload during takeoff, approach, and landing below 400 feet above ground level (AGL). This AD requires revising the existing airplane flight manual (AFM) with new limitations to mitigate identified hazards due to 5G C-Band interference as identified by Notices to Air Missions (NOTAMs). The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 13, 2023.

The FAA must receive comments on this AD by April 10, 2023.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket

No. FAA-2023-0161; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:**

Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7367; email *9-avs-nyaco-cos@faa.gov*.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2023-0161; Project Identifier MCAI-2022-01434-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Steven Dzierzynski,

Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7367; email *9-avs-nyaco-cos@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

The FAA issued AD 2021-23-12, Amendment 39-21810 (86 FR 69984, December 9, 2021) (AD 2021-23-12), to address the effect of interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G C-Band) on all transport and commuter category airplanes equipped with a radio (also known as radar) altimeter. AD 2021-23-12 was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G C-Band. AD 2021-23-12 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations, which require radio altimeter data to land in low visibility conditions, when in the presence of 5G C-Band interference as identified by NOTAMs. Transport Canada, which is the aviation authority for Canada, issued corresponding AD CF-2021-52, dated December 24, 2021, to prohibit certain flight operations requiring radio altimeter data in U.S. airspace affected by 5G C-Band wireless signals.

Since Transport Canada issued AD CF-2021-52, Transport Canada evaluated whether additional 5G-related hazards exist in certain Bombardier model airplanes. Bombardier has determined that 5G C-Band interference can result in unavailable or misleading radio altimeter information, adversely affecting the performance of the AFCS as follows:

- **Erroneous radio altimeter information** has the potential to cause incorrect gains on approach, flight guidance oscillation, and crew over-correction. The flight director uses the glideslope to linearize the angular deviation and if the radio altimeter erroneously changes to an incorrect value, the resulting pitch command may be inadequate, resulting in flight path oscillations.

- **Misleading radio altimeter information** can adversely impact the autothrottle function, resulting in early or late activation of the retard mode, leading to an inappropriate level of thrust. This may result in a low energy state or longer landing distance. This

malfunction will increase pilot workload as the crew disconnects the autothrottle and overrides the throttle levers.

- In the event of a weight-on-wheels (WOW) signal failure in combination with a related Master Minimum Equipment List (MMEL) dispatch, interference may result in the radio altimeter deploying the two pairs of ground spoilers at heights above 7 feet AGL.

These effects may lead to increased flightcrew workload and adversely affect the safe operation of the airplane during takeoff, approach, and landing below 400 feet AGL. Accordingly, Transport Canada determined that additional actions are necessary to address the unsafe condition and issued AD CF-2022-60, dated November 4, 2022 (Transport Canada AD CF-2022-60) (referred to after this as “the MCAI”), on all Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes. Transport Canada AD CF-2022-60 prohibits dispatch under MMEL item “WOW FAULT (ADVISORY)” and requires revising the AFM with new limitations to prohibit autopilot and autothrottle operation below 400 feet AGL when in the presence of 5G C-Band interference as identified by NOTAMs.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-0161.

**FAA’s Determination**

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA

is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

**AD Requirements**

This AD requires revising the existing AFM with new limitations to prohibit dispatch under MMEL Section 2, CAS Messages, item “WOW FAULT (ADVISORY)” and to prohibit autopilot and autothrottle operation below 400 feet AGL when in the presence of 5G C-Band interference as identified by NOTAMs.

**Interim Action**

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

**Justification for Immediate Adoption and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice

and comment prior to adoption of this rule because radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G C-Band. Further, this interference can result in unavailable or misleading radio altimeter information, adversely affecting the performance of the AFCS, which could lead to increased flightcrew workload and adversely affect the safe operation of the airplane during takeoff, approach, and landing. The required actions to address the unsafe condition must be accomplished within 30 days, which is shorter than the time necessary to allow for public comment and for the FAA to publish a final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

**Regulatory Flexibility Act**

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

**Costs of Compliance**

The FAA estimates that this AD affects 165 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR AFM REVISIONS**

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × \$85 per hour = \$170 .....	\$0	\$170	\$28,050

**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 detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under

that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect 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.

For the reasons discussed above, I certify that this AD:

(1) Is not a “significant regulatory action” under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

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

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

#### The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2023–03–06 Bombardier, Inc.:** Amendment 39–22331; Docket No. FAA–2023–0161; Project Identifier MCAI–2022–01434–T.

##### (a) Effective Date

This airworthiness directive (AD) is effective March 13, 2023.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to all Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category.

##### (d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

##### (e) Reason

This AD was prompted by the determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from

wireless broadband operations in the 3.7–3.98 GHz frequency band (5G C-Band), and a recent determination that this interference can result in unavailable or misleading radio altimeter information, adversely affecting the performance of the automatic flight control system (AFCS) and resulting in increased flightcrew workload during takeoff, approach, and landing below 400 feet above ground level. The FAA is issuing this AD to address the resulting effects on the performance of the AFCS. The unsafe condition, if not addressed, could result in increased flightcrew workload and adversely affect the safe operation of the airplane.

##### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

##### (g) Revision of Existing Airplane Flight Manual (AFM): Master Minimum Equipment List (M MEL) Restriction

Within 30 days after the effective date of this AD, revise the Limitations section of the existing AFM to include the information specified in figure 1 to paragraph (g) of this AD.

**Figure 1 to paragraph (g)—M MEL Restriction**

#### Radio Altimeter 5G C-Band Interference, M MEL Restriction

Dispatch or release is prohibited under M MEL Section 2, CAS Messages, item “WOW FAULT (ADVISORY)” into or out of airports in U.S. airspace in the presence of 5G C-Band wireless broadband interference as identified by NOTAMs. (NOTAMs will be issued to state the specific airports where the radio altimeter is unreliable due to the presence of 5G C-Band wireless broadband interference.)

##### (h) Revision of Existing AFM: AFCS

For airplane serial numbers 9002 through 9998 inclusive, 60001 through 60060 inclusive, and 60062 through 60064 inclusive: Within 30 days after the effective

date of this AD, revise the Limitations section of the existing AFM to include the information specified in figure 2 to paragraph (h) of this AD. Using a document with language identical to that of figure 2 to

paragraph (h) of this AD is acceptable for compliance with the requirements of this paragraph.

**Figure 2 to paragraph (h): AFM Limitations revision**

When operating in U.S. airspace, the following operations are prohibited in the presence of 5G C-Band wireless broadband interference as identified by NOTAM, unless using an approved Alternate Means of Compliance (AMOC):

- Autopilot operation below 400 feet AGL.
- Autothrottle operation on approach below 400 feet AGL.

##### (i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as

appropriate. If sending information directly to the manager of the New York ACO Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (j)(2) of this AD or email to: [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov). If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Previous AMOCs:* AMOCs approved for AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021), providing relief for specific radio altimeter installations are approved as AMOCs for the provisions of this AD.

(3) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch,

FAA; or Transport Canada; or Bombardier, Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) Additional Information**

(1) Refer to Transport Canada AD CF-2022-60, dated November 4, 2022, for related information. This AD may be found in the AD docket at *regulations.gov* under Docket No. FAA-2023-0161.

(2) For more information about this AD, contact Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7367; email *9-avsnycaco-cos@faa.gov*.

**(k) Material Incorporated by Reference**

None.

Issued on February 1, 2023.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023-03979 Filed 2-22-23; 4:15 pm]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 97**

[Docket No. 31473; Amdt. No. 4048]

**Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective February 24, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of February 24, 2023.

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

**For Examination**

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**Availability**

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

**FOR FURTHER INFORMATION CONTACT:**

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials.

Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

**Availability and Summary of Material Incorporated by Reference**

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for Part 97 of this final rule.

**The Rule**

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which