the use of noncomplying carts and containers in an airplane that must meet the new standards would be compensated by an increment of safety enjoyed due to the use of complying carts and containers in another airplane that is not required to meet them. It was, therefore, proposed that § 121.312 would be amended to allow such intermixing of galley carts and standard containers, provided that all carts and containers manufactured after a specified date meet the new standards.

Other changes: Certain minor refinements in the test apparatus and procedures were identified; and it was proposed that Appendix F of Part 25, including the associated figures, would be revised accordingly. The proposed refinements would not preclude the use of materials previously found to be acceptable under the new standards; nor enable the use of materials previously found unacceptable; however, they would improve the repeatability of test results from one test run to another and from one laboratory to another. Other minor nonsubstantive editing changes would be made for consistency in style. Nonsubstantive editing changes would also be made to § 25.853 for clarity.

It was also proposed that the organization and language of § 121.312(a) would be revised for clarity.

As noted above, Part 135 was not amended at the time the new standards were adopted; however, they are equally applicable to Part 135 operators because § 135.169(a) incorporates the provisions of § 121.312 by cross reference. Since that time, it has come to the attention of the FAA that the practice of incorporating certain provisions of Part 121 in Part 135 by cross reference may cause confusion. In order to preclude any confusion in this regard, it was proposed that Part 135 would be amended to include the new standards explicitly rather than by reference. Because Part 135 operators are already required to meet these standards due to the incorporation by cross reference, this change would not place any additional burden on any person.

The reference to ''November 26, 1987'' in § 121.312(b) is no longer relevant because that date has already passed. It would, therefore, be removed for simplification. The redundant reference to Appendix F of Part 25 would also be removed from § 121.312(b) for simplification and consistency with the editorial style used in § 121.312(a). (Appendix F, Part II, is incorporated by cross reference in § 25.853(c); and Appendix F, Part IV, is incorporated by cross reference in § 25.853(a-1).)

Since the time Notice 90–12 was issued, Amendment 25–72 was adopted (55 FR 29756, July 20, 1990). Although no substantive changes to § 25.853 were adopted, the requirements of that section were rearranged considerably for clarity, and the test acceptance criteria formerly contained in that section were transferred to Part I of Appendix F. It is, therefore, necessary to make a number of nonsubstantive conforming changes for consistency with § 25.853 in its present format.

Among the changes made to § 25.853 as a result of the adoption of Amendment 25–72 was the transfer of the seat cushion flammability standards from former § 25.853(c) to new § 25.853(b). It has been brought to the attention of the FAA that this change is causing considerable confusion.

Seats are frequently transferred from one airplane to another; therefore, as a practical matter, they must be marked to show that their cushions comply with the flammability standards. With the change in section number, the previous markings indicating compliance with § 25.853(c) are no longer accurate. In order to eliminate further confusion in that regard, § 25.853(b) has been marked ''Reserved,'' and the seat cushion flammability standards have been transferred back to § 25.853(c).

For convenience, the proposed changes to § 25.853 are discussed below both in terms of their identity in Notice 90–12 and as rearranged for conformity with the changes resulting from the adoption of Amendment 25–72.

Discussion of Comments

Seven commenters responded to the request for comments contained in Notice 90–12. These included manufacturers, a foreign airworthiness authority, and organizations representing manufacturers, airlines, and airline employees.

One commenter notes that the restructuring and numbering of § 25.853 may have inadvertently excluded such items as lighting lenses, windows, transparent panels needed to enhance cabin safety, etc., from compliance with any of the flammability standards of § 25.853. The FAA concurs that the wording proposed in Notice 90–12 could have led to an incorrect interpretation of that nature. Section 25.853 is, therefore, changed by transferring the statement ''Except as provided * * *'' to § 25.853(d), which would have been § 25.853(a-1) as proposed in Notice 90–12.

One commenter opposes the proposal to clarify that compartments isolated from the cabin are not required to meet the heat release standards of § 25.853(a–l). The commenter states that all compartment components should be of the same standard and that meeting the same standard would ensure that the net amount of material contributing to fire development and propagation is at the absolute minimum. In that regard, the commenter cites the accident involving a McDonnell Douglas DC–9 operated by Air Canada on June 2, 1983, at the Greater Cincinnati Airport, Covington, Kentucky. The commenter notes that, while the origin of the fire that destroyed the airplane could not be identified, the lavatory compartment's interior material was the primary source of fuel and that the fire burned undetected for almost 15 minutes before the smoke was first noticed. The commenter asserts that requiring the compartment to meet the same low heat release standards as the main cabin would significantly reduce the amount of fuel available for such a fire.

Contrary to the commenter's assertion, requiring all lavatory components to meet the new standards for heat release would not significantly reduce the amount of fuel available for a fire originating in the lavatory. As noted above under Background, the heat release standards do not apply to small surface-area components. As further noted above under Discussion, many of the components in the lavatory are small enough that they would not have to meet the new standards in any event. The doors and most sidewalls have to meet the new standards regardless of whether the new standards are applicable to lavatories because their outer sides also form surfaces of the passenger cabin. Some portions of the lavatory are generally constructed of stainless steel due to functional considerations. Stainless steel is, of course, fireproof. Requiring the few remaining large components to meet the new standards would have very little impact on the overall flammability of the lavatory and would not significantly enhance safety in the event of an inflight fire.

In the accident cited by the commenter, smoke was discovered coming from the left-hand lavatory in the aft cabin while the airplane was enroute from Dallas, Texas to Montreal, Quebec. An emergency landing was not made until 17 minutes later. By that time, the fire and smoke had grown in intensity to the point that only half of the 46 occupants were able to escape. As noted in their official accident report, NTSB/AAR–86/02, the National Transportation Safety Board determined that the probable causes of the accident were a fire of unknown origin, an underestimate of the fire severity, and