

State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

##### 7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

##### 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are proposing to amend 7 CFR parts 300 and 301 as follows:

#### PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

**Authority:** 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

2. Section 300.1 would be amended as follows:

a. In paragraph (a)(8), by removing the word “and”.

b. In paragraph (a)(9), by removing the period and adding the word “; and” in its place.

c. By adding a new paragraph (a)(10) to read as set forth below:

##### § 300.1 Plant Protection and Quarantine Treatment Manual.

(a) \* \* \*  
(10) Treatment T101–m–2–1–2,  
dated \_\_\_\_.  
\* \* \* \* \*

#### PART 301—DOMESTIC QUARANTINE NOTICES

3. The authority citation for part 301 would continue to read as follows:

**Authority:** 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat.

1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

4. Section 301.92–10 would be revised to read as follows:

##### § 301.92–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy *Phytophthora ramorum* are authorized for use on certain regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments also may be used for the regulated articles indicated:

(a) *Soil*—Heat to a temperature of at least 180 °F for 30 minutes in the presence of an inspector.

(b) *Wreaths, garlands, and greenery of host material*—Dip for 1 hour in water that is held at a temperature of at least 160 °F.

Done in Washington, DC, this 2nd day of February 2005.

**Elizabeth E. Gaston,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05–2322 Filed 2–7–05; 8:45 am]

**BILLING CODE 3410–34–U**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 923

[Docket Nos. AO–F&V–923–3; FV03–923–01]

#### Sweet Cherries Grown in Designated Counties in Washington; Secretary's Decision and Referendum Order on Proposed Amendments to Marketing Agreement and Order No. 923; Correction

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule and referendum order; correction.

**SUMMARY:** The Agricultural Marketing Service published in the **Federal Register** on January 14, 2005, a Secretary's Decision and Referendum Order on proposed amendments to the Washington sweet cherry marketing order. This docket corrects the representative period for voting in the referendum from April 1, 2003, through March 31, 2004, to April 1, 2004, through February 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Post Office

Box 1035, Moab, UT 84532, telephone: (435) 259–7988, fax: (435) 259–4945.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Secretary's decision and referendum order that are the subject of this correction propose amendments to the marketing agreement and order (order) and provide growers with the opportunity to vote in a referendum to determine if they favor the proposed amendments.

##### Need for Correction

As published, the representative period for the purpose of the referendum is being changed from April 1, 2003, through March 31, 2004, to April 1, 2004, through February 28, 2005, to reflect the most recent crop year.

##### Correction of Publication

Accordingly, the publication of the proposed rule and referendum order (Docket Nos. AO–F&V–923–3; FV03–923–01), which was the subject of FR Doc. 05–825 published on January 14, 2005 (70 FR 2573) is corrected as follows:

1. On page 2574, column one, under **DATES**; the dates “April 1, 2003, through March 31, 2004,” are corrected to read “April 1, 2004, through February 28, 2005.”

**Authority:** 7 U.S.C. 601–674.

Dated: February 3, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–2388 Filed 2–7–05; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 25

[Docket No. NN301; Notice No. 25–05–01–SC]

#### Special Conditions: Boeing Model 747SP; NASA Stratospheric Observatory for Infrared Astronomy (SOFIA); Cryogenic Systems Using Liquid Nitrogen and Liquid Helium

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

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This notice proposes special conditions for the Boeing Model 747SP airplane. This airplane, as modified by L–3 Communications/Integrated

Systems of Waco, Texas, will have novel and unusual design features associated with cryogenic systems using liquid nitrogen and liquid helium. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed 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:** Comments must be received on or before March 25, 2005.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NN301, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM301. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Kathi Ishimaru, FAA, Propulsion/Mechanical Systems Branch, ANM-112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (425) 227-2674; facsimile (425) 227-1232.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended changes, 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 concerning these special conditions. The docket is available for public inspection 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 on or before 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 in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-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 March 17, 1997, L-3 Communications/Integrated Systems, 7500 Maehr Road, Waco, Texas 76705, applied for a Supplemental Type Certificate (STC) to modify a Boeing Model 747SP airplane for use as a flying observatory. This airplane will fly in the stratosphere to altitudes of 45,000 feet and use infrared technology to observe objects in space. The airplane is a stratospheric observatory for infrared astronomy or SOFIA. The modification consists of the installation of a 2.5-meter telescope, scientist workstations, and containment vessels for liquid helium and nitrogen (liquid converters, valves, evaporating coils, liquid lines, regulators, indicators, fittings, etc). Various science instruments (each having their own airworthiness approval), each weighing approximately 800 pounds, located in the workstation area, can be attached to the telescope for a specific mission (one per mission only).

The mission of the SOFIA airplane is to collect infrared signals. The observatory collects very weak infrared signals that were emitted by distant objects in space thousands of years ago. These signals are focused through the telescope onto sensors in the science instrument which is located on the cabin side of the telescope. To detect the weak infrared signals, the detectors in these sensors are cooled to temperatures near absolute zero by the use of cryogenic fluids. These fluids are contained in vessels similar to vacuum bottles. Their design and installation are covered by these special conditions. These extremely cold environments can only be produced by cryogenic liquids. The SOFIA observatory depends on liquid helium and nitrogen to chill the internal passageways of the detector systems. The amount of cryogenics used here is small.

Cryogenics, in a much greater quantity, are used in the area where the telescope mirror is installed. Liquid nitrogen is converted to a gas and circulated around the mirror to pre-cool it to prevent it from fogging up as it goes from a warm moist atmosphere on the ground to the cold dry atmosphere at high altitudes.

L-3 Communications/Integrated Systems has designed the installation to fly to 45,000 feet and fly in a gradual arc pattern for extended periods of time.

Additionally, various science instruments will be installed under this STC or similar STCs, which will be referenced back to this STC.

The cryogenic systems must be designed and installed to ensure that no failure of the systems, including a leak in any part of the systems, would prevent continued safe flight and landing of the airplane.

There are no specific regulations that address the design and installation of liquid nitrogen systems and liquid helium systems. Existing requirements such as 14 CFR 25.1309 and 25.1438(b) are applicable to this installation. However, the FAA needs to specify additional design standards for systems utilizing cryogenic liquids to ensure that a minimum level of safety is maintained.

##### **Type Certification Basis**

Under the provisions of 14 CFR 21.101, L-3 Communications/Integrated Systems must show that the modified Boeing Model 747SP airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A20WE, 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."

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 747SP airplane modified by L-3 Communications/Integrated Systems 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 747SP must comply with the fuel vent exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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 § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should L-3 Communications/Integrated Systems apply at a later date 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, these special

conditions would also apply to the other model under the provisions of § 21.101.

### Novel or Unusual Design Features

The modified Boeing Model 747SP will incorporate the following novel or unusual design features:

1. Cryogenic fluids (liquid nitrogen and liquid helium) contained in the science instrument in the cabin compartment. The cryogenic gases could cause an asphyxiation hazard to the crew and passengers.

2. The cryogenics (liquid nitrogen), stored for chilling the mirror during ascent, might come in contact with the airplane's structure, which could cause damage to the surrounding structural areas.

### Discussion

There are no specific regulations that address requirements for the use of liquid cryogenics on board airplanes. To ensure that a minimum level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Boeing Model 747SP airplane.

These special conditions require cryogenic systems to be designed and installed to preclude or minimize the existence of unsafe conditions that could result from system leakage, malfunction, or damage from external sources. In the event of leakage in the cabin area, ventilation must be provided that is adequate to protect crew and passengers from asphyxiation. The airplane's structure must also be protected from contacting the liquids. Rotor burst of high-energy equipment must be considered and adequate protection must be provided to protect the liquid containers (either in the cabin or in the aft telescope area).

### Applicability

As discussed above, these special conditions are applicable to Boeing 747SP airplane. Should L-3 Communications/Integrated Systems apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A20WE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

### Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 747SP airplane. 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.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

### The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 747SP airplane as modified by L-3 Communications/Integrated Systems of Waco, Texas:

1. Occupied compartments that contain cryogenic fluids must be provided with a means of ventilation to prevent the accumulation of cryogenic gases to a level that may cause an asphyxiation hazard to the crew or passengers.

2. Cryogen dewars will be limited to a maximum capacity of 70 liters of liquid nitrogen and 80 liters of liquid helium. These limits placed on the instrument are adequate to allow the instrument to perform the mission.

3. Pressure relief valves will provide release of gases to prevent overpressure of dewars and plumbing lines. The pressure relief valves shall be vented overboard through a drain in the bottom of the airplane unless it is substantiated that the valves can be safely vented inside the airplane. The cryogenic system must be designed to prohibit the pressure relief valves from freezing due to air condensing and freezing.

4. Cryogenic equipment and plumbing installations will be designed such that a spill, rupture, or any other failure to contain the liquid cryogen will not result in direct contact of the liquid cryogen with load bearing structure or critical airplane equipment that is essential for the continued safe flight and landing of the airplane.

5. An analysis will be accomplished to substantiate that the airplane will not be overpressurized in the event of a catastrophic failure of all the dewars containing cryogenic fluid.

6. The location of the cryogenic equipment and plumbing installations shall minimize the risk of damage due to an uncontained rotor or fan blade failure. All equipment containing high-energy rotors must be considered, such as turbine engines, auxiliary power units, ram air turbines, electric/pneumatic engine starters, air cycle machines, and certain cooling fans. In addition to properly locating the cryogenic system, operational procedures and shields may be used to minimize the risk of damage. New

equipment containing high-energy rotors whose uncontained failure could damage the cryogenic system must comply with § 25.1461, Amendment 25-41.

7. The cryogenic system must be designed to minimize condensation of the atmospheric air, which could result in a liquid enriched with oxygen due to nitrogen having a lower boiling point than oxygen. Any condensation from system components or lines will be collected by drip pans, shields, or other suitable collection means and drained overboard through a drain fitting separate from the pressure relief vent fittings, if equipped for compliance with Special Condition No. 3. The condensation will be isolated from combustible materials including grease, oil, and ignition sources.

8. Instructions for continued airworthiness (ICA) will require periodic inspection of cryogenic components. The ICA will also include periodic inspection of plumbing insulation to ensure integrity.

9. Shutoff valves will be installed where multiple cryogenic pressurized storage vessels are connected together by manifolds so that a leak in one pressurized storage vessel will not allow leakage of the cryogenic fluids from any other pressurized storage vessel.

10. Cryogenic components must be burst pressure tested to 3.0 times, and proof pressure tested to 1.5 times the maximum normal operating pressure. Tests shall account for the worst-case temperature and material strength properties the components are exposed to in service.

11. The plumbing installation must be designed to consider thermal expansion and thermally induced stresses.

12. The cryogenic system must be protected from unsafe temperatures and located where the probability of hazards of rupture in a crash landing are minimized.

13. The proof of strength of airframe load bearing structure in the vicinity of cryogenic equipment and plumbing must account for temperature extremes, and the effect on the strength of materials, resulting from carriage of cryogenic fluids.

Issued in Renton, Washington, on January 28, 2005.

**Ali Bahrami,**

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

[FR Doc. 05-2319 Filed 2-7-05; 8:45 am]

**BILLING CODE 4910-13-U**