

Board, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The marketing order amendments prompting these changes were implemented on April 2, 2008; (2) related issues were discussed in amendatory proceedings (including a public hearing) and amendments to the order were subsequently approved by producers; (3) the revised regulation should be in effect prior to January 2009, when Board nominations will be conducted; (4) the Board unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (5) the rule provides a 60-day comment period, and any written comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 984.437, paragraphs (a) and (b) are revised to read as follows:

§ 984.437 Methods for proposing names of additional candidates to be included on walnut growers' nomination ballots.

(a) With regard to Board grower member positions specified in § 984.35(a)(5) and (6), any ten or more such growers who marketed an aggregate of 500 or more tons of walnuts through handlers who did not handle 35% or more of the crop during the marketing year preceding the year in which Board nominations are held, may petition the Board to include on the nomination ballot the name of an eligible candidate for this position, and the name of an eligible candidate to serve as his or her alternate. The names of the eligible candidates proposed pursuant to this paragraph shall be

included on the ballot together with the names of any incumbents who are willing to continue serving on the Board.

(b) Any ten or more growers eligible to serve in the grower member positions specified in § 984.35(a)(3) and (4) and § 984.35(b)(4) and (5) and who marketed an aggregate of 500 or more tons of walnuts through handlers who did not handle 35% or more of the crop during the marketing year preceding the year in which Board nominations are held, may petition the Board to include on the nomination ballot for a district the name of an eligible candidate for the applicable position, and the name of an eligible candidate to serve as his or her alternate. The names of the eligible candidates proposed pursuant to this paragraph shall be included on the ballot together with the names of any incumbents who are willing to continue serving on the Board.

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Dated: November 26, 2008.

James E. Link,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM393; Special Conditions No. 25–377–SC]

Special Conditions: Airbus A318, A319, A320, and A321 Series Airplanes; Astronautics Electronic Flight Bags With Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A318, A319, A320, and A321 series airplanes. These airplanes, as modified by L2 Consulting Services, will have a novel or unusual design feature associated with Astronautics electronic flight bags which use lithium battery technology. 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: *Effective Date:* January 5, 2009.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2432; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 2007, L2 Consulting Services of Dripping Springs, Texas, applied for a supplemental type certificate to install Astronautics electronic flight bags on Airbus A318, A319, A320, and A321 series airplanes. In addition to lithium batteries, the Astronautics electronic flight bags contain the following equipment:

- Multiple electronic flight bag display units,
- Multiple electronic units (computer),
- Electronic flight bag power On/Off switches, and
- Mounting arms and mounting brackets.

At present, there is limited experience with use of rechargeable lithium batteries in applications involving commercial aviation. However, other users of this technology, ranging from wireless telephone manufacturers to the electric vehicle industry, have noted safety problems with lithium batteries. These problems include overcharging, over-discharging, and flammability of cell components.

1. Overcharging

In general, lithium batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (i.e., thermal runaway) than their nickel-cadmium or lead-acid counterparts. This is especially true for overcharging that causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway due to overcharging increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

2. Over-Discharging

Discharge of some types of lithium batteries beyond a certain voltage (typically 2.4 volts) can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements

commonly available to flightcrews as a means of checking battery status—a problem shared with nickel-cadmium batteries.

3. *Flammability of Cell Components*

Unlike nickel-cadmium and lead-acid batteries, some types of lithium batteries use liquid electrolytes that are flammable. The electrolyte can serve as a source of fuel for an external fire if there is a breach of the battery container.

These problems experienced by users of lithium batteries raise concern about the use of these batteries in commercial aviation. Accordingly, the proposed use of lithium batteries in Astronautics electronic flight bags on Airbus A318, A319, A320, and A321 series airplanes has prompted the FAA to review the adequacy of existing regulations in Title 14 Code of Federal Regulations (14 CFR) part 25. Our review indicates that the existing regulations do not adequately address several failure, operational, and maintenance characteristics of lithium batteries that could affect the safety and reliability of lithium battery installations.

The intent of these special conditions is to establish appropriate airworthiness standards for lithium batteries in Airbus A318, A319, A320, and A321 series airplanes modified by L2 Consulting Services, and to ensure, as required by § 25.601, that these battery installations are not hazardous or unreliable. Accordingly, these special conditions include the following requirements:

- Those provisions of § 25.1353 which are applicable to lithium batteries.
- The flammable fluid fire protection provisions of § 25.863.

In the past, this regulation was not applied to batteries of transport category airplanes, since the electrolytes used in lead-acid and nickel-cadmium batteries are not flammable.

- New requirements to address the hazards of overcharging and over-discharging that are unique to lithium batteries.
- New Instructions for Continuous Airworthiness that include maintenance requirements to ensure that batteries used as spares are maintained in an appropriate state of charge.

Type Certification Basis

Under the provisions of 14 CFR 21.101, L2 Consulting Services must show that the Airbus A318, A319, A320, and A321 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A28NM 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 certification basis for Airbus A318, A319, A320, and A321 series airplanes includes applicable sections of part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–56, plus other amendments for each model as indicated in Type Certificate No. A28NM. In addition, the certification basis includes certain special conditions, exemptions, equivalent levels of safety, or later amended sections of the applicable part 25 that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for Airbus A318, A319, A320, and A321 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus A318, A319, A320, and A321 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, under § 11.38, and they become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the models for which they are issued. Should L2 Consulting Services apply for a supplemental type certificate to modify any other model included on Type Certificate No. A28NM to incorporate the same or similar novel or unusual design feature, these special conditions would also apply to the other model.

Novel or Unusual Design Features

The Airbus A318, A319, A320, and A321 series airplanes, as modified by L2 Consulting Services, to include Astronautics electronic flight bags which use lithium battery technology, will incorporate a novel or unusual design feature. Because of rapid improvements in airplane technology, 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.

The Astronautics electronic flight bags will include lithium battery installations. Large, high-capacity, rechargeable lithium batteries are a novel or unusual design feature in transport category airplanes. This type of battery has certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on large transport category airplanes. The FAA issues these special conditions to require that all characteristics of the lithium battery and its installation do not adversely affect the safe operation of the airplane.

Discussion of Comments

A Notice of proposed special conditions No. 25–08–06–SC for the Airbus A318, A319, A320 and A321 series airplanes modified by L2 Consulting Services was published in the **Federal Register** on August 7, 2008 (73 FR 45886). One comment was received from Deutsche Lufthansa, AG.

Comment: Lufthansa states that additional testing on Class 1 and Class 2 electronic flight bags will add cost without providing higher degrees of safety.

FAA Disposition: Lufthansa’s comments refer to Class 1 and 2 electronic flight bags. The classes of electronic flight bags are defined in Advisory Circular 91–78: “Physical EFB displays may be portable (Class 1), attached to a mounting device (Class 2), or built into the aircraft (Class 3).” The electronic flight bags to which these special conditions apply are Class 3 electronic flight bags which are permanently installed equipment. Therefore, the comments is not applicable. The special conditions are issued as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus A318, A319, A320, and A321 series airplanes as modified by L2 Consulting Services. Should L2 Consulting Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A28NM 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 of the Airbus A318, A319, A320, and A321 series

airplanes as modified by L2 Consulting Services. It is not a rule of general applicability and affects only the applicant which 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 recordkeeping requirements.

PART 25—[AMENDED]

■ 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 supplemental type certificate for the Airbus A318, A319, A320 and A321 series airplanes, modified by L2 Consulting Services.

Lithium batteries and battery installations on Airbus A318, A319, A320, and A321 series airplanes must be designed and installed as follows:

1. Safe cell temperatures and pressures must be maintained during any foreseeable charging or discharging condition and during any failure of the charging or battery monitoring system not shown to be extremely remote. The lithium battery installation must preclude explosion in the event of those failures.

2. Design of the lithium batteries must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

3. No explosive or toxic gases emitted by any lithium battery in normal operation or as the result of any failure of the battery charging system, monitoring system, or battery installation which is not shown to be extremely remote may accumulate in hazardous quantities within the airplane.

4. Installations of lithium batteries must meet the requirements of § 25.863(a) through (d).

5. No corrosive fluids or gases that may escape from any lithium battery may damage surrounding structure or any adjacent systems, equipment, or electrical wiring of the airplane in such a way as to cause a major or more severe failure condition, in accordance with § 25.1309(b) and applicable regulatory guidance.

6. Each lithium battery installation must have provisions to prevent any hazardous effect on structure or essential systems caused by the

maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

7. Lithium battery installations must have a system to control the charging rate of the battery automatically, so as to prevent battery overheating or overcharging, and,

(a) A battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or

(b) A battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

8. Any lithium battery installation whose function is required for safe operation of the airplane must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the state-of-charge of the batteries has fallen below levels considered acceptable for dispatch of the airplane.

9. The Instructions for Continued Airworthiness required by § 25.1529 must contain maintenance requirements to assure that the lithium battery is sufficiently charged at appropriate intervals specified by the battery manufacturer to ensure that batteries whose function is required for safe operation of the airplane will not degrade below specified ampere-hour levels sufficient to power the electronic flight bag applications that are required for continued safe flight and landing. The Instructions for Continued Airworthiness must also contain procedures for the maintenance of lithium batteries in spare storage to prevent the replacement of batteries whose function is required for safe operation of the airplane with batteries that have experienced degraded charge retention ability or other damage due to prolonged storage at a low state of charge. Precautions should be included in the Instructions for Continued Airworthiness maintenance instructions to prevent mishandling of the lithium battery which could result in short-circuit or other unintentional damage that could result in personal injury or property damage.

Note 1: The term "sufficiently charged" means that the battery will retain enough of a charge, expressed in ampere-hours, to ensure that the battery cells will not be damaged. A battery cell may be damaged by lowering the charge below a point where there is a reduction in the ability to charge and retain a full charge. This reduction

would be greater than the reduction that may result from normal operational degradation.

Note 2: These special conditions are not intended to replace § 25.1353(c), Amendment 25-113 in the certification basis of the L2 Consulting Services supplemental type certificate. These special conditions apply only to lithium batteries and their installations. The requirements of § 25.1353(c), Amendment 25-113 remain in effect for batteries and battery installations on the L2 Consulting Services supplemental type certificate that do not use lithium batteries.

Compliance with the requirements of these special conditions must be shown by test or analysis, with the concurrence of the Fort Worth Special Certification Office.

Issued in Renton, Washington, on November 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 0809191235-81395-01]

RIN 0694-AE48

Addition of Certain Persons to the Entity List: Persons Acting Contrary to the National Security or Foreign Policy Interests of the United States

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding additional persons to the Entity List (Supplement No. 4 to Part 744) on the basis of Section 744.11 of the EAR. This rule is the second rule to add persons to the Entity List on the basis of Section 744.11 of the EAR. These additional persons being added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. The first rule that added persons to the Entity List on the basis of Section 744.11 of the EAR was published on September 22, 2008 (73 FR 54499).

The Entity List provides notice to the public that certain exports and reexports to parties identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that