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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 99-092-2]

Tuberculosis in Cattle, Bison, and Captive Cervids; State and Zone Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the bovine tuberculosis regulations to recognize two separate zones with different tuberculosis risk classifications in the State of Texas. The interim rule was necessary to prevent the spread of tuberculosis and to further the progress of the domestic bovine tuberculosis eradication program.

EFFECTIVE DATE: The interim rule became effective on November 22, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7716.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on November 22, 2000 (65 FR 70284-70286, Docket No. 99-092-1), we amended the bovine tuberculosis regulations in 9 CFR part 77 by recognizing two separate zones with different tuberculosis risk classifications in the State of Texas. That action was necessary to prevent the spread of tuberculosis and to further the progress of the domestic bovine tuberculosis eradication program.

Comments on the interim rule were required to be received on or before January 22, 2001. We received one comment by that date, from a veterinary medical association. The commenter supported the interim rule.

Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Lists of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 77 and that was published at 65 FR 70284-70286 on November 22, 2000.

Authority: 21 U.S.C. 111, 114, 114a, 115-117, 120, 121, 134b and 134f; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 21st day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-24191 Filed 9-26-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM196; Special Conditions No. 25-185-SC]

Special Conditions: Dassault Aviation Mystere-Falcon 50; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Electronic Primary Flight Display systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). 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 September 7, 2001. Comments must be received on or before October 29, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM196, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM196. 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: Meghan Gordon, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-2138; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay certification of the airplane and thus delivery 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.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the rules docket number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM196." The postcard will be date stamped and returned to the commenter.

Background

On July 3, 2001, ElectroSonics, 4391 International Gateway, Columbus, Ohio, applied for a Supplemental Type Certificate (STC) to modify Dassault Aviation Mystere-Falcon 50 airplanes. The Dassault Aviation Mystere-Falcon 50 is a small transport category airplane. The Dassault Aviation Mystere-Falcon 50 airplanes are powered by three AlliedSignal Model TFE 731-3-1C Turbofan Engines with a maximum takeoff weight of 38,800 pounds. This aircraft operates with a 2-pilot crew and can hold up to 19 passengers. The modification incorporates the installation of a Rockwell Collins FDS-2000 Flight Display System. The FDS-2000 is a replacement for the existing Analog Flight Instrumentation, while also providing additional functional capability and redundancy in the system. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, ElectroSonics must show that the Dassault Aviation Mystere-Falcon 50 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A46EU, 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 included in the certification basis for the Dassault Aviation Mystere-Falcon 50 airplanes include 14 CFR part 25, dated February 1, 1965, as amended by amendment 25-1 through amendment 25-34; § 25.255, as amended by amendment 25-42; §§ 25.979(d) and (e), as amended by amendment 25-38; 25.1013(b)(1) as amended by amendment 25-36; § 25.1351(d), as amended by amendment 25-41; 25.1353(c)(6), as amended by amendment 25-42; Special Conditions No. 25-86-EU-24 dated March 6, 1979.

If the Administrator finds that the applicable airworthiness regulations (that is, part 25, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics 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, these Dassault Aviation Mystere-Falcon 50 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34, and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with 11.38 and become part of the airplane's type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should ElectroSonics 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(a)(1).

Novel or Unusual Design Features

As noted earlier, the Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics will incorporate dual Electronic Primary Flight Display systems that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly,

this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics. Should ElectroSonics 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 apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

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. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, 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 supplemental type certification basis for the Dassault Aviation Mystere-Falcon 50 airplanes modified by ElectroSonics.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on September 7, 2001.

Ali Bahrani,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-24219 Filed 9-26-01; 8:45 am]

BILLING CODE 4910-13-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 211, 231 and 241

[Release Nos. 33-8005A; 34-44820A; FR-58A]

Calculation of Average Weekly Trading Volume Under Rule 144 and Termination of a Rule 10b5-1 Trading Plan

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: This release expresses the Commission's view on how to calculate

the average weekly reported volume of trading in securities under Rule 144(e), given the lack of trading during the week of September 10, 2001. This release also expresses the Commission's view that termination of a Rule 10b5-1 trading plan during the period between September 11, 2001 and September 28, 2001, inclusive, does not, by itself, suggest that the plan was not "entered into in good faith and not as part of a plan or scheme to evade" the insider trading rules within the meaning of Rule 10b5-1(c).

EFFECTIVE DATE: September 21, 2001.

FOR FURTHER INFORMATION CONTACT:

Robert Plesnarski, Special Counsel, or Paula Dubberly, Chief Counsel, Office of the Chief Counsel, Division of Corporation Finance, at (202) 942-2900, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0402.

SUPPLEMENTARY INFORMATION:

I. Introduction and Summary

In light of the emergency closure of the U.S. equity and options markets from September 11, 2001 through September 14, 2001, law firms and registrants have asked the Commission how to calculate the average weekly reported volume of trading in an issuer's securities for purposes of Rule 144¹ under the Securities Act of 1933.² Because the markets were open for only one day during the week beginning on September 10, 2001, the Commission believes that it is appropriate to use weeks preceding and subsequent to the week of September 10, 2001, but to not include that calendar week, in determining the average weekly reported volume of trading under Rule 144(e).

The Commission also believes that termination of a written Rule 10b5-1³ plan between September 11, 2001 and September 28, 2001, inclusive, will not, by itself, call into question whether the plan was "entered into in good faith and not as part of a plan or scheme to evade" the insider trading rules.

II. Discussion

A. Average Weekly Reported Volume of Trading for Rule 144

Rule 144 defines specific circumstances in which a person will be deemed not to be engaged in a distribution and, therefore, not to be an underwriter as defined in Section 2(a)(11) of the Securities Act.⁴ The

¹ 17 CFR 230.144.

² 15 U.S.C. 77b(a) *et seq.*

³ 17 CFR 240.10b5-1.

⁴ 15 U.S.C. 77b(a)(11).