

(2) Inspectors from the NPPO of the Philippines must inspect a biometric sample of the fruit from each place of production at a rate to be determined by APHIS. The inspectors must visually inspect for quarantine pests listed in the introductory text of this section and must cut fruit to inspect for quarantine pests that are internal feeders. If *Bactrocera* spp. fruit flies are found upon inspection, the export program will be suspended until an investigation has been conducted by APHIS and the NPPO of the Philippines and appropriate mitigations have been implemented. If other quarantine pests are detected in this inspection, the consignment will be destroyed and the registered place of production will be rejected from the export program.

(i) *Phytosanitary certificate*. Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of the Philippines that contains an additional declaration stating that the bananas in the consignment were grown, packed, and inspected in accordance with the systems approach in 7 CFR 319.56–58.

(Approved by the Office of Management and Budget under control number 0579–0394)

Done in Washington, DC, this 4th day of February 2013.

**Kevin Shea,**

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

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 72

[Docket No. APHIS–2012–0069]

#### Texas (Splenetic) Fever in Cattle

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the Texas (Splenetic) Fever regulations by updating the scientific names for the ticks that transmit the disease, listing additional names for the disease, and removing all products except coumaphos from the list of dips permitted for use on cattle in interstate movement. These actions are necessary to update and clarify the regulations.

**DATES:** *Effective Date:* February 7, 2013

**FOR FURTHER INFORMATION CONTACT:** Dr. Matthew T. Messenger, Staff Entomologist, Cattle Fever Tick

Eradication Program Manager, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 851–3421.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 72, “Texas (Splenetic) Fever in Cattle” (referred to below as the regulations), restrict the interstate movement of cattle from areas of the United States that are quarantined because of ticks that are vectors for bovine babesiosis. The disease is referred to in the regulations as splenetic or tick fever. Splenetic or tick fever is a contagious, infectious, and communicable disease of cattle that causes cattle to become weak and dehydrated and can cause death.

Section 72.1 lists the scientific names for ticks capable of transmitting microscopic parasites (*Babesia*) that cause bovine babesiosis. We are amending the list by clarifying that *Margaropus annulatus* is now considered a distinct species, and the genus *Boophilus* has been reclassified as a subgenus of the genus *Rhipicephalus*. In addition, we are removing *R. evertsi evertsi* from the list since this species is endemic to Africa and does not have established populations in North America.

Section 72.2 lists areas of the United States where splenetic or tick fever exists in cattle. We are amending this section to indicate that the terms southern fever, cattle fever, Texas fever, bovine piroplasmiasis, redwater, and bovine babesiosis all refer to the same disease.

Section 72.13 concerns tickicidal dips for cattle and dipping procedures. Paragraph (b) lists the dips permitted for use on cattle in interstate movement. We are amending paragraph (b) by removing all dips except coumaphos, which is the only product being used currently. All other products have been removed from the market and their Environmental Protection Agency registration canceled by the manufacturers.

Currently, the title of part 72 is “Texas (Splenetic) Tick Fever in Cattle.” We are changing the title of the part to “Bovine Babesiosis” for the sake of clarity and technical accuracy.

#### Executive Orders 12866 and 12988 and Regulatory Flexibility Act

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Orders 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this

rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to Congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Paperwork Reduction Act

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

#### List of Subjects in 9 CFR Part 72

Animal diseases, Cattle, Quarantine, Transportation.

Accordingly, 9 CFR part 72 is amended as follows:

#### PART 72—BOVINE BABESIOSIS

■ 1. The authority citation for part 72 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. The heading of part 72 is revised to read as set forth above.

■ 3. Section 72.1 is revised to read as follows:

##### § 72.1 Interstate movement of infested or exposed animals prohibited.

No animals infested with ticks [*Boophilus annulatus* or *Rhipicephalus* (*Boophilus*) *annulatus*, *Margaropus annulatus*, *Boophilus microplus* or *Rhipicephalus* (*Boophilus*) *microplus*, or Babesiosis (Babesiosis) species vectors of *Margaropus*, *Rhipicephalus*, *Amblyomma*, *Demacentor*, or *Ixodes*] or exposed to tick infestation may be moved interstate, except as provided in this part.

■ 4. Section 72.2 is amended as follows:  
■ a. By revising the section heading to read as set forth below.

■ b. In the first sentence of the section, by removing the word “splenetic” and adding the words “bovine piroplasmiasis, bovine babesiosis, redwater, or splenetic, southern, cattle, Texas” in its place.

**§ 72.2 Restrictions on movement of cattle.**

\* \* \* \* \*

**§ 72.13 [Amended]**

■ 5. Section 72.13 is amended as follows:

- a. In paragraph (b) introductory text, by removing the word “Department” and by adding the words “U.S. Department of Agriculture” in its place.
- b. By removing paragraphs (b)(1), (b)(3), and (b)(4), by redesignating paragraph (b)(2) as paragraph (b)(1), and by adding and reserving a new paragraph (b)(2).

Done in Washington, DC, this 4th day of February 2013.

**Kevin Shea,**

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

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 25**

[Docket No. FAA-2012-1200; Special Conditions No. 25-475-SC]

**Special Conditions: Embraer S.A., Model EMB-550 Airplane; Hydrophobic Coatings in Lieu of Windshield Wipers**

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

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for the Embraer S.A., Model EMB-550 airplane. This airplane will have a novel or unusual design feature(s) associated with hydrophobic coatings. 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:* March 11, 2013.

**FOR FURTHER INFORMATION CONTACT:** Paul Bernado, FAA, Airplane and Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057-3356; telephone 425-227-1209; facsimile 425-227-1320.

**SUPPLEMENTARY INFORMATION:****Background**

On May 14, 2009, Embraer S.A. applied for a type certificate for their

new Model EMB-550 airplane. The Model EMB-550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB-550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500-E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The Model EMB-550 airplane will use a hydrophobic coating on the windshield in lieu of windshield wipers. The existing regulation, Title 14, Code of Federal Regulations (14 CFR) 25.773(b)(1), requires a means to maintain a sufficiently clear portion of the windshield for both pilots to have sufficiently extensive view along the flight path during precipitation conditions in heavy rain at speeds up to 1.5  $V_{SR1}$ . The heavy rain and high speed conditions in the rule do not necessarily represent the limiting condition for this new technology. For example, airflow over the windshield may be necessary to remove moisture, but may not be adequate to maintain a sufficiently clear area of the windshield in low speed flight or during surface operations. Alternatively, airflow over the windshield may be disturbed during critical times such as the approach to land, where the airplane is at higher-than-normal pitch angle.

**Type Certification Basis**

Under the provisions of 14 CFR 21.17, Embraer S.A. must show that the Model EMB-550 airplane meets the applicable provisions of part 25, as amended by Amendments 25-1 through 25-127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB-550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that

incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Embraer S.A. Model EMB-550 airplane 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 and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92-574, the “Noise Control Act of 1972.”

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

**Novel or Unusual Design Features**

The Embraer S.A. Model EMB-550 airplane will incorporate the following novel or unusual design features: The Model EMB-550 airplane has a hydrophobic coating on the windshield to provide adequate pilot compartment view in precipitation in lieu of windshield wipers.

**Discussion**

14 CFR 25.773(b)(1) requires a means to maintain a clear portion of the windshield for both pilots to have a sufficiently extensive view along the flight path during precipitation conditions. The regulations require this means to maintain such an area during precipitation in heavy rain at speeds up to 1.5  $V_{SR1}$ . The requirement that the means to maintain a clear area of forward vision must function at high speeds and high precipitation rates is based on the use of windshield wipers as the means to maintain an adequate area of clear vision in precipitation conditions. The requirement in 14 CFR 121.313(b), and in 14 CFR 125.213(b), to provide “a windshield wiper or equivalent for each pilot station” has remained unchanged since at least 1953.

The effectiveness of windshield wipers to maintain an area of clear vision normally degrades as airspeed and precipitation rates increase. It is assumed that because high speeds and high precipitation rates represent limiting conditions for windshield wipers, they will also be effective at lower speeds and precipitation levels. Accordingly, § 25.773(b)(1)(i) does not require maintenance of a clear area of forward vision at lower speeds or lower precipitation rates.

A forced airflow blown directly over the windshield has also been used to maintain an area of clear vision in precipitation. The limiting conditions