

exemptions may be waived on a case by case basis.

A notice of system of records for Facility and Perimeter Access Control and Visitor Management is also published in this issue of the **Federal Register**.

#### List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

#### PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for Part 5 continues to read as follows:

**Authority:** 6 U.S.C. 101 *et seq.*; Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, the following new paragraph “14”:

#### Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

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14. The Department of Homeland Security—024 Facility and Perimeter Access Control and Visitor Management system of records consists of electronic and paper records and will be used by DHS and its components. DHS/All—024 Facility and Perimeter Access Control and Visitor Management is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. Facility and Perimeter Access Control and Visitor Management contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to 5 U.S.C. 552a(k)(1), (2), and (5), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law

enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: December 22, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. E9–935 Filed 1–15–09; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 340

[Docket No. APHIS–2008–0023]

RIN 0579–AC31

#### Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We are reopening the comment period for our proposed rule that would revise our regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We will consider all comments that we receive on or before March 17, 2009.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0023> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0023, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0023.

- *Public Forum:* Written and oral comment will be accepted at a public forum held during the comment period. See Public Forums below.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5710.

**SUPPLEMENTARY INFORMATION:**

On October 9, 2008, we published in the *Federal Register* (73 FR 60007-60048, Docket No. APHIS-2008-0023) a proposal<sup>1</sup> to revise our regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered (GE) organisms. The proposed revisions would bring the regulations into alignment with provisions of the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) and update the regulations in response to advances in genetic science and technology and our accumulated experience in implementing the current regulations.

By the time the public comment period closed on November 24, 2008, we had received over 15,000 comments, including requests for APHIS to extend the public comment period. We are currently evaluating all the comments, and it is apparent that additional time for public comment is warranted and that it would be particularly helpful to receive additional comments on a variety of specific issues that have been raised thus far on the proposed rule.

Therefore, we are reopening the comment period on Docket No. APHIS-2008-0023 for an additional 60 days. We will also consider all comments received between November 25, 2008 (the date following the close of the original comment period), and the date of this notice. This action will allow interested persons additional time to prepare and submit comments. While all aspects of the proposal may be addressed by the public, we are particularly seeking additional comments on the issues listed below. In some cases commenters identified concerns about these issues, but did not provide specific suggestions as to how the proposed rule could be modified to address these concerns. By reopening the comment period, we hope to elicit more specific information and detailed suggestions regarding these issues.

*Issue 1: Scope of the regulation and which GE organisms should be regulated.* Section 340.0 of the proposed rule lists a number of criteria or factors to consider to identify those GE organisms which would be subject to the regulations. The proposal stated that

in many cases a person could correctly apply the criteria to determine whether a specific GE organism is subject to the regulations, and stated that consultation with APHIS would be available in cases where it was not readily apparent whether or not a GE organism is regulated. Some commenters questioned whether the proposed scope could be interpreted with reasonable certainty. Some commenters thought the scope was effectively too broad and would regulate too many harmless GE organisms, while others thought it was too narrow and would exempt GE organisms that should be regulated. Some commenters stated that all GE plants should be subject to the regulations. We welcome additional comments on these subjects, including suggestions on what the criteria should be for determining the scope and applicability of the regulations and suggestions on which specific GE organisms should be included or excluded from the regulations based upon the potential risks consistent with the authorities provided in the PPA.

*Issue 2: Incorporation of the Plant Protection Act noxious weed provisions.* The proposed rule included APHIS evaluating certain GE organisms as a noxious weed risk pursuant to the PPA definition of "noxious weed" including consideration of noxious weed attributes in the scope of the regulation and in the decision making standards proposed in the regulations. Some comments suggested that this aspect of the proposal overestimates the likelihood that the use of GE techniques will create a noxious weed, whereas other comments suggested that the proposal did not pay enough attention to noxious weed attributes. Other comments broadly discussed the utility of the noxious weed authority of the PPA and how APHIS should apply it in these regulations. We welcome additional comments on how APHIS should include and apply the PPA's noxious weed provisions in the regulations in order to provide an appropriate level of protection based upon the potential risks consistent with the authorities provided in the PPA.

*Issue 3: Elimination of notification procedure and revision of the permit procedure.* The proposed rule would eliminate the notification procedure for authorizing importations, interstate movements, and releases into the environment, and instead use the permitting procedure for these activities. The proposal provided categories that APHIS would use for environmental release permits. Commenters raised many questions about the consequences of eliminating

notifications. They also raised questions about the clarity of the requirements associated with the proposed permit categories. Some commenters expressed concern that the proposal would remove from the regulations firm timeframes for APHIS administrative action on applications, and that the proposed generalized timeframes were much longer than the timeframes under the current notification procedure. Several commenters saw this proposed change as detrimental to planning activities, especially for conducting field tests. Some commenters raised concerns that the proposed changes would substantially increase the data collection and recordkeeping burden on all applicants and responsible persons, whereas the current recordkeeping requirements for notifications are less than the requirements for permits. We welcome additional comments on these issues, including specific suggestions on how the regulations could achieve the necessary level of protection against the introduction and dissemination of plant pests or noxious weeds while minimizing any additional compliance burden for applicants or delay in processing applications.

*Issue 4: Environmental release permit categories and regulation of GE crops that produce pharmaceutical and industrial compounds.* In the proposal, the categories for environmental release permits would be an initial administrative sorting done by APHIS prior to a full evaluation and determination of appropriate permit conditions for that particular permit. Most of the comments focused on the four categories APHIS proposed for GE plants. The two primary factors APHIS identified as most relevant to define its initial sorting system for environmental release permits were (1) the ability of the unmodified recipient plant species to persist in the wild and (2) the potential of the engineered trait to cause harm, injury, or damage, as described in the definitions of plant pest and noxious weed. The categories in the proposal were not based on intended use of the GE plant, but rather its properties. Many commenters, however, stated that they wanted APHIS to act on the intended use of the GE plant and ban all environmental releases of GE plants that are intended to produce compounds to be used in pharmaceutical or industrial uses, especially if that plant species is also used for the production of food or feed. We are seeking further comment on whether or how an intended use to produce pharmaceutical or industrial compounds contributes to an increase in plant pest or noxious weed risks. We

<sup>1</sup> To view the proposed rule, supporting documents, and any comments we have received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0023>.

welcome additional comments on all these issues, including specific suggestions on how the regulations could best provide the appropriate level of protection based upon the potential risks consistent with the authorities provided in the PPA.

#### Public Forums

In order to provide additional opportunities for the public to comment on the proposed rule, APHIS held public forums on the proposal in Davis, CA, on October 28, 2008; in Kansas City, MO, on October 30, 2008; and Riverdale, MD, on November 13, 2008. APHIS intends to hold one additional public forum on the proposed rule during the extended public comment period. The time and place of the public forum will be announced in the **Federal Register**.

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 13th day of January 2009.

**Cindy J. Smith,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9–905 Filed 1–15–09; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2008–1229; Airspace Docket No. 08–ASW–26]

#### Proposed Amendment of Class E Airspace; Natchitoches, LA

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend Class E airspace at Natchitoches, LA. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Natchitoches Regional Airport, Natchitoches, LA. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Natchitoches Regional Airport.

**DATES:** 0901 UTC. Comments must be received on or before March 2, 2009.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140,

Washington, DC 20590–0001. You must identify the docket number FAA–2008–1229/Airspace Docket No. 08–ASW–26, at the beginning of your comments. You may also submit comments on the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

**FOR FURTHER INFORMATION CONTACT:** Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; telephone: (817) 222–5582.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket No. FAA–2008–1229/Airspace Docket No. 08–ASW–26.” The postcard will be date/time stamped and returned to the commenter.

##### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA’s Web page at [http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW.,

Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA’s Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional Class E airspace for SIAPs operations at Natchitoches Regional Airport, Natchitoches, LA. The area would be depicted on appropriate aeronautical charts.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace at