

Proposed Rules

Federal Register

Vol. 64, No. 242

Friday, December 17, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 99-067-1]

Scrapie Pilot Projects

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the voluntary scrapie flock certification program and the interstate movement of sheep and goats to exempt flocks from certain regulatory requirements when the flocks are participating in scrapie control pilot projects authorized by the Animal and Plant Health Inspection Service. We believe this action is necessary so that pilot projects can achieve their goal of furthering progress toward the eradication of scrapie. This action would affect a small number of flock owners participating in scrapie control pilot projects.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by January 18, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-067-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 99-067-1.

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.

APHIS documents published in the **Federal Register**, and related

information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, Senior Staff Veterinarian, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235; (301) 734-7709.

SUPPLEMENTARY INFORMATION:

Background

Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), administers regulations at 9 CFR part 79, which restrict the interstate movement of certain sheep and goats. APHIS also administers the Voluntary Scrapie Flock Certification Program (the VSFCP), described in the regulations at 9 CFR part 54.

For more than 40 years, USDA has had programs to eradicate or reduce the incidence of scrapie in the United States, using a variety of approaches. APHIS is continually working to develop new and more effective approaches to control scrapie. As part of this effort, APHIS is currently working with flock owners to develop pilot projects that may involve using techniques and procedures different from those contained in the current regulations. Some of the pilot projects under development cannot proceed unless the current regulations are waived for the participating flocks. For example, current flock plans require that animals identified as *high-risk animals* be removed from flocks, while some pilot project protocols would allow high-risk animals to remain in flocks so that alternative flock cleanup strategies can be studied.

APHIS will develop pilot projects in States in which State animal health agencies have indicated a willingness to change their usual requirements and procedures in order to try pilot approaches for scrapie management. In order for a flock owner to participate in a pilot project, the State agency must be willing to modify requirements for flock management, quarantine and movement of animals, and animal identification, to

the extent that these matters are affected by the protocol of the particular pilot project. A flock owner who chooses to participate in a pilot project must agree to follow the procedures identified for the project, and must have the necessary records, personnel, and facilities to maintain the flock in accordance with the terms of the pilot project. Flock owners who are interested in exploring the idea of participating in a pilot project can contact APHIS or their State animal health agency to discuss the possibility, and State or APHIS inspectors who already work with flock owners may also ask owners of flocks that are likely candidates if they want to be involved in a pilot project.

Pilot projects are conducted under the close supervision and control of APHIS and are carefully designed to mitigate the risk of the further spread of scrapie. We believe that providing waivers for participants in pilot projects is essential to achieve more effective approaches to control scrapie. Therefore, we propose to amend the regulations to define the term *scrapie control pilot project* and to allow the Administrator to waive specified requirements of parts 54 and 79 for flocks participating in scrapie control pilot projects.

We propose to define *scrapie control pilot project* in parts 54 and 79 as follows: "A pilot project authorized by the Administrator in writing, designed to perform research or test or improve program procedures for scrapie control. In addition to APHIS, participants may include State animal health agencies, flock owners, and other parties as necessary."

We propose to add a provision to parts 54 and 79 that permits the Administrator to waive certain requirement of parts 54 and 79, and the Scrapie Flock Certification Program Standards referenced by them, for participants in a scrapie control pilot project. We propose that the Administrator may waive either or both of the following requirements when a particular pilot project makes them unnecessary to control scrapie:

1. The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

2. The requirement that high-risk animals must be removed from a flock in accordance with a flock plan, if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

This change would primarily affect flock owners who volunteer to participate in pilot projects. In general, these owners would be relieved of specified regulatory restrictions that would otherwise apply to them and would be able to retain or move their animals more freely than they could if certain requirements of the regulations were not waived for pilot projects. Currently these owners are losing the economic value of sheep that may not be scrapie infected. The pilot projects may correct this situation so that flock owners can retain the animals.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would allow the Administrator to exempt sheep and goat flocks participating in scrapie control pilot projects from certain requirements of the regulations. Because APHIS resources will allow us to develop and administer only a limited number of pilot projects, this proposed rule would affect no more than 75 sheep flocks containing approximately 3,400 sheep that may be engaged in pilot projects in any given year. It could affect substantially fewer if owners of flocks eligible for pilot projects decline to participate. APHIS expects to engage in scrapie pilot projects over approximately the next 5 years. Based on current plans for pilot projects, this proposed rule would probably affect no more than 20 flocks the first year. The primary effects on these flock owners would be beneficial, in that animal testing and genotyping under the pilot projects would allow them to keep animals that would otherwise have to be destroyed under the regulations. All flock owners would eventually accrue long-term benefits from the control or eradication of scrapie in the form of reduced loss of animals from the disease and opening of additional international markets.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not

have a significant economic impact on a substantial number of small entities.

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.)

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 in conflict 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 proposed 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

9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Scrapie, Sheep.

9 CFR Part 79

Animal diseases, Quarantine, Sheep, Transportation.

Accordingly, we propose to amend 9 CFR parts 54 and 79 as follows:

PART 54—CONTROL OF SCRAPIE

1. The authority citation for part 54 would continue to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, and 134a–134h; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 54.1, the following definition would be added in alphabetical order to read as follows:

§ 54.1 Definitions.

* * * * *

Scrapie control pilot project. A pilot project authorized by the Administrator in writing, designed to perform research or test or improve program procedures for scrapie control. In addition to APHIS, participants may include State animal health agencies, flock owners, and other parties as necessary.

* * * * *

3. A new § 54.14 would be added to read as follows:

§ 54.14 Waiver of requirements for scrapie control pilot projects.

(a) The Administrator may waive the following requirements of this part for

participants in a scrapie control pilot project by recording the requirements waived in the scrapie control pilot project plan:

(1) The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

(2) The requirement that high-risk animals must be removed from a flock if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

(b) [Reserved]

PART 79—SCRAPIE IN SHEEP AND GOATS

1. The authority citation for part 79 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.20, 2.80, and 371.2(d).

2. In § 79.1, the following definition would be added in alphabetical order to read as follows:

§ 79.1 Definitions.

* * * * *

Scrapie control pilot project. A pilot project authorized by the Administrator in writing, designed to perform research or test or improve program procedures for scrapie control. In addition to APHIS, participants may include State animal health agencies, flock owners, and other parties as necessary.

* * * * *

3. A new § 79.4 would be added to read as follows:

§ 79.4 Waiver of requirements for scrapie control pilot projects.

(a) The Administrator may waive the following requirements of this part for participants in a scrapie control pilot project by recording the requirements waived in the scrapie control pilot project plan:

(1) The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

(2) The requirement that high-risk animals must be removed from a flock, if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

(b) [Reserved]

Done in Washington, DC, this 13th day of December 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-32734 Filed 12-16-99; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASO-24]

Proposed Amendment of Class E Airspace; Wise, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Wise, VA. A Global Positioning System (GPS) Standard Instrument Approach procedure (SIAP), helicopter point in space approach, has been developed for Whitesburg Appalachian Regional Hospital, Whitesburg, KY. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Whitesburg Appalachian Regional Hospital. This action proposes to amend the Class E5 airspace for Wise, VA, to the northwest in order to include the point in space approach serving Whitesburg Appalachian Regional Hospital.

DATES: Comments must be received on or before January 18, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99-ASO-24, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

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 the airspace docket number 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 Airspace Docket No. 99-ASO-24." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO-520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Wise, VA. A GPS SIAP, helicopter point in space approach, has been developed for Whitesburg Appalachian Regional Hospital, Whitesburg, KY. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Whitesburg Appalachian Regional Hospital. Class E airspace designations for airspace areas

extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposed to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

AEA VA E5 Wise, VA [Revised]

Lonesome Pine Airport, Wise, VA