# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 331

### 9 CFR Part 121

**[Docket No. APHIS–2007–0033]**

**RIN 0579–AC53**

## Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Delay of Compliance Date for Newly Registered Entities

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

**ACTION:** Final rule; delay of compliance date.

**SUMMARY:** In a final rule published in the **Federal Register** on October 16, 2008 (73 FR 61325–61332, Docket No. APHIS–2007–0033), and effective November 17, 2008, we amended and republished the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products, thus implementing the findings of the second biennial review of that list. Among other changes, we changed the entry for ''Newcastle disease virus (velogenic)'' to read ''virulent Newcastle disease virus,'' thus including some non-velogenic strains of Newcastle disease virus as select agents. The final rule set the compliance date for entities that were newly required to register as entities possessing select agents or toxins as April 14, 2009. Since the publication of the final rule, we have been notified of entities that use virulent Newcastle disease virus and that have not previously been registered. This notice informs the public that we are extending the compliance date for new registrants to July 13, 2009, to give us additional time to determine how best to regulate those entities.

**DATES:** The compliance date for entities that are newly required to register is extended to July 13, 2009.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the regulations in 7 CFR part 331, contact Ms. Cassie Armiger, Program Analyst, Select Agent Program, PPQ, APHIS, 4700 River Road, Unit 2, Riverdale, MD 20737–1231; (301) 734–5960.

For information concerning the regulations in 9 CFR part 121, contact Dr. Freeda Isaac, Director, NCIE, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

**SUPPLEMENTARY INFORMATION:**

### Background

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 provides for the regulation of certain biological agents and toxins that have the potential to pose a severe threat to both human and animal health, to animal health, to plant health, or to animal and plant products. Veterinary Services (VS) select agents and toxins are those that have been determined to have the potential to pose a severe threat to animal health or animal products.

Subtitle B (which is cited as the ''Agricultural Bioterrorism Protection Act of 2002''), section 212(a), provides, in part, that the Secretary of Agriculture (the Secretary) must establish by regulation a list of each biological agent and each toxin that the Secretary determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products. Paragraph (a)(2) of section 212 requires the Secretary to review and republish the list every 2 years and to revise the list as necessary.

On August 28, 2007, in accordance with the Act, we published in the **Federal Register** (72 FR 49231–49236, Docket No. APHIS–2007–0033) a proposal [1] to amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. Among other things, we proposed to add some select agents and toxins to the list.

In the list of VS select agents and toxins in 9 CFR 121.3, we also proposed to change the entry for ''Newcastle disease virus (velogenic)'' to read ''virulent Newcastle disease virus,'' consistent with the World Organization for Animal Health (OIE) definition of the virus. Newcastle disease has lentogenic, mesogenic, and velogenic strains, the last of which are typically virulent; however, consistent with the OIE definition, we proposed that any Newcastle disease virus could be considered virulent if it has an intracerebral pathogenicity index in day-old chicks of 0.7 or greater or has an amino acid sequence at the fusion protein cleavage site that is consistent with virulent strains of Newcastle disease virus. This information was provided in a footnote to the proposed entry for ''virulent Newcastle disease virus.''

We noted in the proposal that ''the redefinition of Newcastle disease virus (velogenic) to virulent Newcastle disease virus may lead to new registrants. It is possible that additional entities may be in possession of a virulent strain of Newcastle disease virus that does not fit the current definition. However, these strains have not circulated in the United States since the 1970s. In addition, entities most likely to be in possession of virulent Newcastle disease virus are already in possession of Newcastle disease virus (velogenic) and therefore already registered.''

We solicited comments concerning our proposal for 60 days ending October 29, 2007. We reopened and extended the deadline for comments until December 3, 2007, in a document published in the **Federal Register** on November 16, 2007 (72 FR 64540, Docket No. APHIS–2007–0033). We received 62 comments by that date. None of the comments addressed the proposed change to the entry for Newcastle disease virus.

In a final rule published in the **Federal Register** on October 16, 2008 (73 FR 61325–61332, Docket No. APHIS–2007–0033), and effective November 17, 2008, we amended and republished the list of select agents and toxins, adding the proposed new select agents and toxins and finalizing the change to the entry for Newcastle

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0033.*

disease. Entities that possessed the select agents and toxins added in the final rule and that had not been registered were now required to register under the select agent regulations.

To minimize the disruption of research or educational projects (*e.g.,* teaching demonstrations) involving listed select agents or toxins, the final rule provided any individual or entity possessing newly added select agents or toxins as of the effective date of the final rule, November 17, 2008, with additional time to reach full compliance with the select agent regulations. The responsible official at all entities that possessed a new agent or toxin was required to provide notice to APHIS regarding their possession of the new agent(s) and toxin(s) by November 17, 2008. The final rule also stated that, by April 14, 2009, all previously unregistered entities must be registered and thus in compliance with the regulations.[2]

Since the publication of the final rule, some entities have notified us that they use virulent Newcastle disease virus for bird vaccines, in research on cancer treatment in humans, and as a vector of antigenic proteins that enhance immune response to cancer and to diseases (*e.g.,* influenza and avian influenza). This notice informs the public that we are extending the compliance date for registration of entities that are newly required to register to July 13, 2009, to give us additional time to determine how best to regulate those entities.

**Authority:** 7 U.S.C. 8401; 7 CFR 2.22, 2.80, 371.3, and 371.4.

Done in Washington, DC, this 8th day of April 2009.

**Kevin Shea,**

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

[FR Doc. E9–8383 Filed 4–10–09; 8:45 am]

**BILLING CODE 3410–34–P**

[2] The compliance date in the final rule was originally published as April 14, 2008; it was corrected to April 14, 2009, in a correction published on October 27, 2008 (73 FR 63621).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2008–0827; Directorate Identifier 2008–NE–26–AD; Amendment 39–15879; AD 2009–08–06]**

**RIN 2120–AA64**

## Airworthiness Directives; General Electric Company (GE) CF6–80A Series Turbofan Engines

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for GE CF6–80A series turbofan engines with certain stage 1 high-pressure turbine (HPT) rotor disks, installed. This AD requires removal from service of those stage 1 HPT rotor disks within 30 days after the effective date of the AD. This AD results from the FAA learning that those disks are susceptible to cracks developing at the aft chamfer of the blade dovetail slots. We are issuing this AD to prevent cracks developing at the aft chamfer of the blade dovetail slots that could propagate to a failure of the disk and cause an uncontained engine failure and damage to the airplane.

**DATES:** This AD becomes effective May 18, 2009.

**ADDRESSES:** The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

**FOR FURTHER INFORMATION CONTACT:** Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *robert.green@faa.gov*; telephone: (781) 238–7754, fax: (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to GE CF6–80A series turbofan engines with certain stage 1 HPT rotor disks, installed. We published the proposed AD in the **Federal Register** on September 4, 2008 (73 FR 51604). That action proposed to require removal from service of those stage 1 HPT rotor disks within 30 days after the effective date of the AD.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received.

### Claim That Cost of Compliance Is Underestimated

One commenter, FedEx Express, claims that we greatly underestimated the actual cost of compliance with the proposed AD. The proposed AD estimated 1 work-hour of labor. The commenter states that this estimate is accurate only when the engine is already removed and disassembled to piece-part exposure of the disk. The commenter states that the true cost to an airline, both in disruption to the operation and in the subsequent unplanned engine shop visit, would vastly exceed 1 work-hour.

We agree that the cost of compliance should also cover the work-hours for an unplanned engine shop visit. We do not agree that it should factor in the cost of disruption to the operation. We are required to calculate only the direct cost to an operator, of labor and parts. We changed the cost of compliance paragraph to include an estimate for an unplanned engine shop visit.

### Clarification of Unsafe Condition Statement

Since we issued the proposed AD, we clarified the unsafe condition statement as to where potential cracks could occur in the disk. We changed ''cracks developing in the bottoms of the dovetail slots'' to ''cracks developing at the aft chamfer of the blade dovetail slots.''

### Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.