

April 26, 2001

Dockets Management System
U.S. Department of Transportation
Room PL-401
400 Seventh Street, NW
Washington, DC 20590-0001

Docket Number: RSPA-98-3971 (HM-226)

Notice of Proposed Rulemaking, "Hazardous Materials: Revision to Standards for Infectious substances and Genetically Modified Microorganisms," Research and Special Programs Administration (RSPA), Department of Transportation (DOT)

The American Phytopathological Society (APS), a professional association representing the interest of five thousand scientists whose pivotal research advances the understanding of plant disease science and its application to plant health respectfully submits its comments regarding the above-referenced matter (*Federal Register*, January 22, 2001, 66:6942-6962)

APS members work in research, industrial and government laboratories where genetically modified organisms (GMOs) and infectious substances are transported on a regular basis. Our scientists strongly support the safe transport and shipment of biological materials, and believe that any federal rules or regulations governing such shipment should be scientifically based and practical.

In general, APS endorses the comments submitted on April 16, 2001 by the American Society for Microbiology (ASM), which articulated a number of problems with the RSPA proposals as currently drafted. In particular, APS agrees with ASM's observation that the proposals are exceedingly complex, making compliance by working scientists difficult at best. In addition, APS supports ASM's view that the reporting requirement should be simplified in order to reduce additional paperwork.

APS also strongly supports ASM's view that the RSPA proposal's treatment of GMOs is scientifically unsound and inconsistent with the NIH Guidelines for Research Involving Recombinant DNA molecules. While APS agrees that potentially hazardous GMOs should be labeled and shipped as such, the proposed Class 9 categorization of all GMOs (most of which pose little or no risk to human, animal, or plant health or the environment) is both

scientifically unnecessary and burdensome to research scientists, many of whom transport biological materials on a daily basis. While imposing this extra and scientifically unjustified burden on scientists working in an academic or commercial setting, the proposed rules exempt federal agencies/employees, creating a two-tier and fundamentally unfair system. APS endorses ASM's recommendation that the proposed definitions of Class 9 should, "[a]t a minimum, ... be in conformity with the risk classifications in the NIH RDNA Guidelines that are used by NIH, NSF, USDA and DOD and are subject to periodic review and revision."

While APS appreciates that the intent of the proposed rules is, in part, to harmonize United States rules with existing international rules and regulations, APS questions whether the proposed rules will in fact achieve greater safety or promote increased compliance with safety rules. If they do not, APS strongly recommends against any changes in existing rules, as changes could have an unnecessary and harmful effect on the advancement of scientific research in the United States.

APS appreciates this opportunity to comment on the Department's proposed rule and would be happy to provide any additional information.

Yours sincerely,

A handwritten signature in black ink that reads "O.W. Barnett". The signature is written in a cursive style with a prominent initial "O".

O.W. Barnett, Ph.D.
Chair, APS Public Policy Board