

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 71**

[Docket No. 02-069-1]

Interstate Movement of Swine Within a Production System; Inspection of Swine**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Proposed rule.

SUMMARY: We are proposing to amend the regulations pertaining to the interstate movement of swine by limiting the requirement for mandatory veterinary inspections, at intervals of 30 days or less, to swine that are or will be in the process of moving interstate within a swine production system and to the premises on which such swine are housed. With this proposed change, swine that have arrived at a finishing house or other final destination within a single swine production system would no longer be required to undergo veterinary inspections at intervals of 30 days or less. In order to ensure that finishing house animals would still undergo regular health monitoring, swine that have completed their interstate movement within the swine production system, as well as the premises on which they are housed, would have to be inspected in accordance with State regulations. This proposed rule would reduce the frequency of veterinary inspections for swine that have completed their interstate movement within a single swine production system without diminishing the effectiveness of our swine-disease monitoring and surveillance activities.

DATES: We will consider all comments that we receive on or before July 22, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-069-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-069-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and

address in your message and "Docket No. 02-069-1" on the subject line.

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 dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Adam Grow, Senior Staff Veterinarian, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7708.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in subchapter C of chapter I, title 9, Code of Federal Regulations, govern the interstate movement of animals and animal products to prevent the dissemination of livestock and poultry diseases in the United States. Part 71 of subchapter C includes, among other things, requirements for the identification and inspection of swine being moved interstate.

On December 20, 2001, we published in the **Federal Register** (66 FR 65598-65604, Docket No. 98-023-2) a final rule that established an alternative to the requirements for moving swine interstate. Among other things, the rule allowed persons to move swine interstate without meeting individual swine identification requirements if the swine were being moved within a single swine production system, and provided that the swine production system agreed to monitor the health of animals moving within the system and to facilitate tracebacks. The rule was designed to further facilitate the interstate movement of swine while continuing to provide protection against the interstate spread of swine diseases.

Among other things, the final rule amended § 71.1 by adding a definition of *swine production health plan*. This definition featured a provision requiring that such plans "must identify all premises that are part of the swine production system and that receive or send swine in interstate commerce and

must provide for regular inspections of all identified premises and swine on the premises, at intervals no greater than 30 days, by the swine production system accredited veterinarians(s)." By providing for regular inspections of "all identified premises and swine on the premises," this provision has the effect of requiring such inspections even after the swine have completed their interstate movement within the swine production system and have arrived at a finishing house or other final receiving premises within the swine production system.

Some commenters on the proposal that preceded the final rule suggested that while veterinary inspections at intervals of 30 days or less are appropriate and necessary for swine that are still to be moved interstate, such regular inspections are not necessary once the animals have completed their interstate movement within the swine production system. Furthermore, it was suggested that retaining the 30-day veterinary inspection requirement for animals that had reached their final destination in the system could unintentionally increase the risk of swine disease transmission by requiring veterinarians who may have first inspected sick animals to inspect healthy ones as well, even in the absence of a compelling medical need to do so.

When we promulgated the final rule, we decided to retain the 30-day inspection provision. We were concerned that reducing the frequency could put accredited veterinarians in violation of our accreditation standards in 9 CFR 161.3(a). Under these standards, accredited veterinarians must complete certificates of inspection based on veterinary inspection. An accredited veterinarian may not issue any certificate or other document "which reflects the results of any inspection, test, [etc.]" unless he or she has personally inspected the animal not more than 10 days prior to issuing the certificate or other document. However, following the initial and subsequent inspections of a herd or flock that is in a regular health maintenance program, an accredited veterinarian may issue any certificate or other document if not more than 30 days have passed since he or she personally inspected the animal.

We have since concluded, however, that having a more flexible inspection requirement for swine that have reached their final destination in the swine production system would not conflict with our accreditation standards. A certification of inspection is necessary for the interstate movement of swine within a swine production system.

Swine that have reached a finishing house or other final destination in the system will be destined for the slaughterhouse. Nothing in the current proposal would preclude any inspection needed to issue a certification for the interstate movement of swine to slaughter. The proposal would merely eliminate routine 30-day inspections for animals that have arrived at a finishing house or other final destination and that may well spend months at that one location. It does not relieve accredited veterinarians of the responsibility of complying with the accreditation standards or other applicable requirements.

Therefore, we are proposing to amend our definition of *swine production health plan* in § 71.1 to allow for greater flexibility in health inspections of swine that have completed their movement within a swine production system. Under our proposed definition, the swine production health plan would have to provide for health monitoring, including inspection by the swine production system accredited veterinarian(s), of all swine within the system. The required frequency of inspections would vary according to the nature of the premises and the swine that populate them. Inspections of premises that contain swine that are or will be in the process of moving interstate within the swine production system and of all swine on those premises would still have to be conducted by the accredited veterinarian(s) at intervals of no greater than 30 days. Inspections of premises containing only swine that have completed their interstate movement within a single swine production system and of all swine on those premises would have to be conducted in accordance with State regulations.

This action would reduce the frequency of veterinary inspections for swine that have completed their interstate movement within a single swine production system without diminishing the effectiveness of our swine-disease monitoring and surveillance activities.

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 remove a requirement in § 71.1 for veterinary inspections, at intervals no greater than 30 days, of swine that have already

completed their interstate movement within a swine production system.

The entities affected by this proposed action would be swine owners and swine finishing houses or other final receiving destinations in swine production systems. Data from the 1997 Census of Agriculture suggest that approximately 109,754 swine farms could be affected, and that 98 percent of these swine farms could be classified as small entities under the Small Business Administration criterion of \$750,000 or less in revenue per year.¹

The overall economic impact of this proposed rule should be positive but small. Swine operations would be able to forgo certain costs of inspections at the finishing houses or other final receiving premises in the swine production system. The annual savings that would be realized by each swine operation are difficult to estimate because many of the veterinarians who perform the inspections are held under a retainer and perform other services for the swine operation. However, the time and resources of the veterinarian could be redirected to other issues at the finishing houses or other receiving premises, like caring for sick animals, thereby benefitting swine owners.

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 new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

¹ 1997 Census of Agriculture, Hogs and Pigs Inventory (<http://www.nass.usda.gov>).

List of Subjects in 9 CFR 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR part 71 as follows:

PART 71—GENERAL PROVISIONS

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

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

2. In § 71.1, in the definition of *swine production health plan*, the second sentence would be removed and four new sentences would be added in its place to read as follows:

§ 71.1 Definitions.

* * * * *

Swine production health plan. * * *
The plan must identify all premises that are part of the swine production system and that receive or send swine in interstate commerce and must provide for health monitoring of all swine within the system. Such health monitoring must include inspections by the swine production system accredited veterinarian(s). Inspections of all identified premises that contain swine that are or will be in the process of moving interstate within the swine production system and of all swine on those premises must be conducted by the accredited veterinarian(s) at intervals of no greater than 30 days. Inspections of all identified receiving premises that contain only swine that have completed their interstate movement within a single swine production system and of all swine on those premises must be conducted in accordance with State regulations.

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Done in Washington, DC, this 19th day of May 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–12994 Filed 5–22–03; 8:45 am]

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