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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. APHIS-2018-0067]

RIN 0579-AE50

Swine Health Protection Act; Amendments to Garbage Feeding Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Swine Health Protection Act regulations by removing the State status lists from the regulations in order to maintain these lists on the Agency's website. These changes would allow us to use a notice-based, streamlined approach to update the lists while continuing to protect swine health in the United States.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0067>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2018-0067, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0067> or in our reading room, which 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) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. John Korslund, DVM, Staff Officer, Veterinary Services, Surveillance, Preparedness, and Response Services, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737-1236; e-mail: John.A.Korslund@usda.gov; phone: (301) 851-3468.

SUPPLEMENTARY INFORMATION:

Background

The Swine Health Protection Act (7 U.S.C. 3801 *et seq.*, referred to below as the Act) is intended to protect the commerce, health, and welfare of the people of the United States by ensuring that food waste fed to swine does not contain active disease organisms that pose a risk to domestic swine. The regulations in 9 CFR part 166 regarding swine health protection (referred to below as the regulations) were promulgated in accordance with the Act.

The regulations contain provisions that regulate food waste containing any meat products fed to swine. Compliance with these regulations ensures that all food waste fed to swine is properly treated to kill disease organisms. Raw or undercooked meat may transmit numerous infectious or communicable diseases to swine, including exotic viral diseases such as foot-and-mouth disease, African swine fever, classical swine fever, and swine vesicular disease. Under

the regulations, food waste containing meat may be fed to swine only if it has been treated to kill disease organisms.

Section 166.15 of the regulations contains provisions regarding garbage feeding and enforcement responsibility, with lists of States that are subject to each provision. Paragraph (a) lists States prohibiting feeding garbage to swine, paragraph (b) lists States permitting the feeding of treated garbage to swine, paragraph (c) lists States with primary enforcement responsibility under the Act, and paragraph (d) lists States without primary enforcement responsibility under the Act issuing licenses under a cooperative agreement with the Animal and Plant Health Inspection Service (APHIS). Paragraph (e) provides contact information for persons with questions about the feeding of garbage to swine.

The last change to a State's status in § 166.15 was made in 2004. Historically, changes to State statuses have been announced through a final rule published in the *Federal Register*. These final rules, published without an initial proposed rule or comment period, affirmed changes already made by a State to its laws governing the feeding of garbage to swine. We determined that, because these rules reflected already completed State actions to their garbage feeding laws, soliciting public comments would not yield additional relevant information.

We are proposing to revise § 166.15 by moving the State status lists in § 166.15(a) through (d) from the regulations to the APHIS website. As a result of this move, any subsequent changes to a State's status would be communicated through a notice, i.e., we would publish a notice in the *Federal Register* announcing the change to the State's status in conjunction with updating the lists maintained on the APHIS website. This action would allow us to provide more timely and up-to-date information about State and territory statuses to our stakeholders and the public.

As revised, proposed § 166.15 would list the categories of States currently described in paragraphs (a) through (d) while referencing the location of the State lists in a website address. We would also retain the contact information found in paragraph (e).

These changes would allow us to use a notice-based, streamlined approach to update the lists while continuing to protect swine health in the United States.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This proposed 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 is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov website (see ADDRESSES above for instructions for accessing Regulations.gov).

In accordance with the Swine Health Protection Act (7 U.S.C. 3801 *et seq.*), APHIS regulates food waste containing any meat products fed to swine. Raw or undercooked meat may transmit numerous infectious or communicable diseases. Compliance with these regulations ensures that all food waste fed to swine is properly treated to kill disease organisms.

We are proposing to revise the regulations by moving the State status lists in § 166.15(a) through (d) from the regulations to the APHIS website. As a result of this proposed move, any subsequent additions, deletions, and other changes to a State's status would be made using a notice-based process.

The proposed rule, while facilitating changes to the State status lists, is not expected to have an economic impact on hog and pig farms.

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 2 CFR chapter IV.)

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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements included in this proposed rule have already been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0065.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to

provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2483.

List of Subjects in 9 CFR Part 166

Animal diseases, Reporting and recordkeeping requirements, Swine.

Accordingly, we propose to amend 9 CFR part 166 as follows:

PART 166—SWINE HEALTH PROTECTION

1. The authority citation for part 166 continues to read as follows:

Authority: 7 U.S.C. 3801-3813; 7 CFR 2.22, 2.80, and 371.4.

2. Section 166.12 is amended by:

a. Removing the phrase “listed in § 166.15(d) of this part” each time it appears and adding the phrase “referenced in § 166.15(a)” in its place;

b. Revising footnote 1; and

c. Removing the words “of this part” in paragraph (c).

The revision reads as follows:

§ 166.12 Cancellation of licenses.

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¹To find the name and address of the Area Veterinarian in Charge, go to https://www.aphis.usda.gov/animal_health/contacts/field-operations-districts.pdf.

3. Section 166.15 is revised to read as follows:

§ 166.15 State status.

(a) The Animal and Plant Health Inspection Service (APHIS) will maintain on its website² the following lists of States:

- (1) States that prohibit the feeding of garbage to swine;
- (2) States that allow the feeding of treated garbage to swine;
- (3) States that have primary enforcement responsibility under the Act; and
- (4) States that issue licenses under cooperative agreements with APHIS, but do not have primary responsibility under the Act.

(b) For information concerning the feeding of garbage to swine, the public may contact the APHIS Area Veterinarian in Charge, the State animal health official, or Veterinary Services, 4700 River Road Unit 37, Riverdale, MD 20737-1231.

²<https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/swine-disease-information>.

Done in Washington, DC, this 14th day of June 2019 .

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.
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