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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: Final rule.

SUMMARY: We are amending 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 will allow us to use a notice-based, streamlined approach to update the lists while continuing to protect swine health in the United States.

DATES: Effective [Insert date 30 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. Ross Free, Veterinary Services, APHIS, 920 Main Campus Dr. # 200, Raleigh, NC 27606; email: [Ross.a.Free@usda.gov](mailto:Ross.a.Free@usda.gov);

phone: (919) 855-7712.

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. Section 166.15 of the regulations contains provisions regarding garbage feeding and enforcement responsibility, with lists of States that are subject to each provision.

On June 20, 2019, we published in the *Federal Register* (84 FR 28774-28775, Docket No. APHIS-2018-0067) a proposal<sup>1</sup> to amend the regulations by moving the State status lists for garbage feeding of swine in § 166.15 from the regulations to the Animal and Plant Health Inspection Service (APHIS) website. As a result of this move, any subsequent change to a State's status will be announced through a notice published in the *Federal Register* in conjunction with updating that status on the APHIS website.

We solicited comments concerning our proposal for 60 days ending August 19, 2019. We received four comments by that date. They were from a national organization representing pork producers and members of the public. All responses were in favor of moving the State status lists in § 166.15 from the regulations to the APHIS website.

One commenter stated that we should ensure that information be made available in an alternative format for persons without online access.

In § 166.15(b), we note that 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.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

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<sup>1</sup> To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0067>.

This final 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 rule is not an Executive Order 13771 regulatory action because this 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 on the Regulations.gov website (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

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 revising the regulations by moving the State status lists in § 166.15 from the regulations to the APHIS website. As a result of this move, any subsequent additions, deletions, and other changes to a State's status will be made using a notice-based process.

This final 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 will 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### 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 final 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

rule, please contact Mr. Joseph Moxey, 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 are amending 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 the text of 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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<sup>1</sup>To 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](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 website<sup>2</sup> 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.

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

Done in Washington, DC, this 18th day of November 2019 .

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Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

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