

**§ 1955.103 Definitions.**

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*Socially disadvantaged applicant (SDA).* An applicant who is a member of a socially disadvantaged group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as a member of a group, without regard to their individual qualities. For entity SDA applicants, the majority interest in the entity must be held by socially disadvantaged individuals. The Agency has identified socially disadvantaged groups as Women, Blacks, American Indians, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

\* \* \* \* \*

Dated: October 27, 2003.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

Dated: October 28, 2003.

**Thomas C. Dorr,**

*Under Secretary for Rural Development.*

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

[Docket No. 02-069-2]

**Interstate Movement of Swine Within a Production System; Inspection of Swine**

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

**ACTION:** Final rule.

**SUMMARY:** We are amending 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 change, swine that have arrived at a finishing house or other final destination within a single swine production system will no longer be required to undergo veterinary inspections at intervals of 30 days or less. In order to ensure that finishing house animals will 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, will have to be inspected in accordance with State regulations. This

rule reduces 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.

**EFFECTIVE DATE:** November 3, 2003.

**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 (referred to below as the regulations) includes, among other things, requirements for the identification and inspection of swine being moved interstate.

On May 23, 2003, we published in the **Federal Register** (68 FR 28167-28168, Docket No. 02-069-1) a proposal to amend the regulations to allow for greater flexibility in health inspections of swine that have completed their movement within a swine production system. Specifically, we proposed to amend our definition of *swine production health plan* in § 71.1 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. Under our proposed rule, 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.

The proposed rule was intended to allow for greater flexibility in health monitoring within a swine production system without diminishing the effectiveness of our swine-disease monitoring and surveillance activities.

We solicited comments concerning our proposal for 60 days ending July 22, 2003. We received three comments by that date. They were from a veterinary association and pork producers' associations. All three commenters favored the proposed rule.

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

**Miscellaneous**

While we are adopting the proposed rule as a final rule without change, we are making three minor editorial changes to the regulations in part 71 in this final rule. First, in § 71.3(c), we are correcting an outdated reference to certain provisions of the tuberculosis regulations in part 77. Those provisions had been contained in § 77.5, but in a final rule published in the **Federal Register** on October 23, 2000 (65 FR 63502-63533, Docket No. 99-038-5), were moved to § 77.17. The reference in § 71.3(c) to those provisions should have been updated at that time, but was not; we are correcting that oversight in this final rule. The other two changes we are making simply correct the numbering of footnotes found in §§ 71.18 and 71.20.

**Effective Date**

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule limits 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. By reducing the frequency of required veterinary inspections for swine that have completed their interstate movement within a single swine production system, this final rule eases the burden on swine producers, particularly those involved in the operation of swine finishing houses or other final receiving destinations in swine production systems. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be made effective upon publication in the **Federal Register**.

**Executive Order 12866 and Regulatory Flexibility Act**

This 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 final rule removes 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 likely to be affected by this final rule are 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 may be affected, and that 98 percent of these swine farms can be classified as small entities under the Small Business Administration criterion of \$750,000 or less in revenue per year.<sup>1</sup>

The overall economic impact of this rule is likely to be positive but small. Swine operations will 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 may be realized by each swine operation are difficult to estimate because many of the accredited veterinarians who perform the inspections are held under a retainer and perform other services for the swine operation. However, this rulemaking will allow the time and resources of the accredited veterinarian to 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 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 7 CFR part 3015, subpart V.)

**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.

**Paperwork Reduction Act**

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 9 CFR 71**

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

■ Accordingly, we are amending 9 CFR part 71 as follows:

**PART 71—GENERAL PROVISIONS**

■ 1. The authority citation for part 71 continues 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*, in the second paragraph, the first sentence is removed and four new sentences are 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.

\* \* \* \* \*

**§ 71.3 [Amended]**

■ 3. In § 71.3, paragraph (c)(3), the citation “§ 77.5” is removed and the citation “§ 77.17” is added in its place.

**§ 71.18 [Amended]**

■ 4. In § 71.18, paragraph (a)(5), redesignate footnote 2 as footnote 6.

**§ 71.20 [Amended]**

■ 5. In § 71.20, paragraph (a), redesignate footnote 6 as footnote 7.

Done in Washington, DC, this 28th day of October, 2003.

**Kevin Shea,**

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

[FR Doc. 03–27540 Filed 10–31–03; 8:45 am]

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**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 130**

[Docket No. 02–041–2]

**Veterinary Services User Fees; Fee for Use of Animal Ramp at Miami International Airport**

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations to establish a user fee for a Government-owned ramp at Miami International Airport used to move animals off of and onto airplanes. Prior to the establishment of this user fee, we were able to recover the cost of labor in supervising and assisting importers and exporters in the ramp's use through existing user fees, but we had to absorb all other costs associated with the ramp. The new user fee will ensure that we recover costs incurred by the ramp's purchase and use and will shift the cost of the ramp to those who receive benefits from its use.

**EFFECTIVE DATE:** December 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations for Veterinary Services, contact Ms. Inez Hockaday, Director, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737–1231, (301) 734–7517.

For information concerning rate development of the user fee, contact Mrs. Kris Caraher, Accountant, User Fees Section, Financial Management Division, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–8351.

**SUPPLEMENTARY INFORMATION:****Background**

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS)

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