

This interim rule provides that, although industrially processed products that meet the definition of *garbage* must, as a general rule, be heated at boiling for 30 minutes before being fed to swine, those materials that meet the definition of *processed product* (i.e., that have undergone an industrial manufacturing procedure to prevent spoilage or add shelf stability, and that have, at a minimum, been cooked to a temperature of 167 °F (75 °C) for at least 30 minutes or have been subjected to an industrial process demonstrated to provide an equivalent level of inactivation of disease organisms, as approved by the Administrator) are exempt from the requirement for boiling. The main heat treatment methods used by garbage feeders are direct-fire cookers (mostly for smaller loads) and steam injection cookers (larger loads). Spinelli and Corso (2000) assumed an average heating cost of \$5 per ton in 1997 (or about \$6.67 per ton in 2008 dollars) for food waste heated at 212 °F for 30 minutes.<sup>11</sup>

We do not know what proportion of *garbage* as defined in part 166 is derived in whole or in part from animal material that has undergone heating to 167 °F for 30 minutes or has been subjected to an industrial process that provides an equivalent level of disease mitigation. As an illustrative example of the potential effect of this rule on producers who feed to swine those materials that meet the definition of *processed product*, if such materials were to comprise 5 percent of garbage fed to swine, then the cost to producers who feed such materials could be nearly \$100,000 less overall than it would be if all such processed product were treated by being heated at boiling for 30 minutes.<sup>12</sup>

#### *Affected Small Entities*

The Small Business Administration (SBA) has established size standards for determining whether firms are considered small under the Regulatory Flexibility Act. The majority of U.S. swine producers (NAICS 112210) are small entities, based on the SBA small-

entity standard of not more than \$750,000 in annual receipts.<sup>13</sup> In 2007, there were a total 2,722 feeders that potentially could be affected by this rule, depending upon whether they include processed products in their feed. The average income of these entities is estimated to be about \$4,290, well below the small-entity size standard.<sup>14</sup>

#### *Summary*

Producers known to feed garbage to swine numbered 2,722 in 2007 (about 3 percent of all swine producers), and produced only about 0.12 percent of the swine marketed that year. Of these producers, the cost of feeding garbage to swine will be less for those who use processed products as feed. The rule will also provide swine producers who do not currently feed garbage to swine the option of feeding to swine processed product that is not required to be heated at boiling for 30 minutes at a licensed facility.

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

<sup>13</sup> SBA, Small Business Size Standards matched to North American Industry Classification System 2002, Effective July, 2006 (<http://www.sba.gov/size/sizetable2002.html>).

<sup>14</sup> This average income is calculated by multiplying the number of market swine fed food waste by their average market value, and dividing that product by the number of garbage feeders in 2007: 160,000\*73/2,722 = \$4,290.96.

#### **List of Subjects in 9 CFR Part 166**

Animal diseases, Hogs, Reporting and recordkeeping requirements.

■ 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. In § 166.1, a definition of *processed product* is added, in alphabetical order, to read as follows:

#### **§ 166.1 Definitions in alphabetical order.**

\* \* \* \* \*

*Processed product.* Material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, that has undergone an industrial manufacturing procedure to prevent spoilage or add shelf stability, and that has, at a minimum, been cooked to a temperature of 167 °F (75 °C) for at least 30 minutes or has been subjected to an industrial process demonstrated to provide an equivalent level of inactivation of disease organisms, as approved by the Administrator.

\* \* \* \* \*

#### **§ 166.2 [Amended]**

■ 3. In § 166.2, paragraph (a) is amended by adding the words “Processed products;” immediately after the words “any of the following:”.

Done in Washington, DC, this 31st day of March 2009.

**Kevin Shea,**

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

[FR Doc. E9–7507 Filed 4–2–09; 8:45 am]

**BILLING CODE 3410–34–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 117**

[Docket No. USCG–2009–0162]

**Drawbridge Operation Regulation; Houma Navigation Canal, Mile 36.0, at Houma, Terrebonne Parish, LA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

Swine Industry Crisis, April 2008 (<http://www.wppa.org/Portals/wppa/WebEconomicImpactFinal.pdf>), and 137,758,900 market swine is from footnote 9. We note that the 716 pounds of feed consumption per animal is less than half of the food waste consumption per garbage-fed animal reported by Spinelli and Corso (2000).

<sup>11</sup> Felix J. Spinelli and Barbara Corso, “The Economics of Feeding Processed Food Waste to Swine” in Michael L. Westendorf (ed.) *Food Waste in Animal Feed*, Iowa State University Press, 2000.

<sup>12</sup> An estimated 293,330 tons of food waste used in 2007, multiplied by a heating cost of \$6.67 per ton, multiplied by 5 percent equals \$97,826.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 661 Swing Bridge across the Houma Navigation Canal, mile 36.0, in Houma, Terrebonne Parish, Louisiana. The deviation is necessary to replace the wedge assemblies on the bridge. This deviation allows the bridge to remain closed during daytime hours with three approved openings and remain in the open-to-navigation position at night for the passage of vessels.

**DATES:** This deviation is effective from 6 a.m. on April 20, 2009 through 8 p.m. on April 30, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0162 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 671–2128.

**SUPPLEMENTARY INFORMATION:** Louisiana Department of Transportation and Development has requested a temporary deviation from the operating schedule of the State Route 661 Swing Bridge across the Houma Navigation Canal, mile 36.0, in Houma, Terrebonne Parish, Louisiana. The closure is necessary to allow for repairs to the bridge. From Monday, April 20, 2009, until Thursday, April 30, 2009, the contractor plans to work from 6 a.m. until 8 p.m. daily with three scheduled openings for the passage of vessels. From 8 p.m. until 6 a.m. daily, the bridge will remain in the open to navigation position for the passage of vessels.

The vertical clearance of the swing bridge in the closed-to-navigation position is 1.0 feet and unlimited in the open-to-navigation position. If for any reason, the contractor is not working during this period, the bridge will be returned to normal operation and must open on signal. If the maintenance work is completed prior to April 30, 2009, the bridge will be returned to normal

operation. The bridge owner will keep the Coast Guard informed as to any change in the schedule so that proper notices to mariners may be issued informing the public of changes to the operation of the bridge.

Presently, the bridge operates in accordance with 33 CFR 117.455 which requires the draw of the bridge across the Houma Navigation Canal at S661, mile 36.0 at Houma, to open on signal, except that the draw need not be opened for the passage of vessels Monday through Friday except holidays from 7 a.m. to 8:30 a.m., from 11:45 a.m. to 12:15 p.m., from 12:45 p.m. to 1:15 p.m., and 4:30 p.m. to 6 p.m. This deviation will allow the bridge to remain in the closed-to-navigation position from 6 a.m. until 8 p.m. daily; except that, the draw will open on signal for the passage of vessels at 8 a.m., noon, and 4 p.m. From 8 p.m. until 6 a.m., the bridge will remain in the open-to-navigation position for the passage of vessel. The temporary deviation will begin on Monday, April 20, 2009 and continue through 8 p.m. on Thursday, April 30, 2009. Navigation on the waterway consists of tugs with tows, fishing vessels and recreational craft. Due to prior experience and coordination with waterway users it has been determined that this closure will not have a significant effect on these vessels.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 16, 2009.

**David M. Frank,**

*Bridge Administrator.*

[FR Doc. E9–7528 Filed 4–2–09; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2007–1155; FRL–8767–5]

#### Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Updated Statutory and Regulatory Provisions; Rescissions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Under the Clean Air Act, EPA is approving a revision to the Nevada state implementation plan involving legal authority. This revision was one of

the provisions that were the subject of a proposed rule published in the **Federal Register** on December 14, 2007. EPA is taking this action under the Clean Air Act obligation to take action on submittals of revisions to state implementation plans. The effect of this action is to update the Nevada state implementation plan.

**DATES:** *Effective Date:* This rule is effective on May 4, 2009.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2007–1155 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Andrew Steckel, EPA Region IX, (415) 947–4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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#### I. Proposed Action

On December 14, 2007 (72 FR 71095), under the Clean Air Act (CAA or “Act”), EPA proposed approval of certain revisions, and disapproval of certain other revisions, to the Nevada State Implementation Plan (SIP) that had been submitted by the Nevada Division of Environmental Protection (NDEP) on January 12, 2006 and June 26, 2007. The provisions that were proposed for approval on December 14, 2007 included certain definitions; prohibitory rules; provisions related to legal authority and enforcement; rules establishing opacity, sulfur and volatile organic compound limits; and rescission of abbreviations. The proposed disapprovals related to rescission of a certain definition and rescission of a rule related to emission discharge information. In our proposed rule, we indicated that that the approval of a certain statutory provision related to legal authority (*i.e.*, [Nevada Revised Statutes (NRS) section 445B.310