

and "U.S.A. Blueberry Council" is removed and "U.S.A. Cultivated Blueberry Council" is added in its place.

**§ 1218.40 [Amended]**

12. The undesignated center heading preceding § 1218.40 is revised to read as follows:

**U.S.A. Cultivated Blueberry Council**

**§ 1218.40 [Amended]**

13. In § 1218.40 the word "blueberries" is removed and the words "cultivated blueberries" are added in its place wherever it appears, the words "U.S.A. Blueberry Council" are removed and the words "U.S.A. Cultivated Blueberry Council" are added in its place wherever it appears, and "USABC" is removed and "USACBC" is added in its place wherever it appears.

**§§ 1218.41, 1218.42, 1218.43, 1218.44, 1218.45, 1218.46, 1218.47, 1218.48, 1218.50, 1218.51, 1218.55, 1218.56, 1218.62, 1218.70, 1218.73, 1218.75, and 1218.77 [Amended]**

14. In §§ 1218.41, 1218.42, 1218.43, 1218.44, 1218.45, 1218.46, 1218.47, 1218.48, 1218.50, 1218.51, 1218.55, 1218.56, 1218.62, 1218.70, 1218.73, 1218.75, and 1218.77 "USABC" is removed and "USACBC" is added in its place wherever it appears.

**§§ 1218.52, 1218.53, 1218.54 and 1218.60 [Amended]**

15. In §§ 1218.52, 1218.53, 1218.54, and 1218.60 the word "blueberries" is removed and the words "cultivated blueberries" are added in its place wherever it appears, and "USABC" is removed and "USACBC" is added in its place wherever it appears.

**§§ 1218.71 and 1218.72 [Amended]**

16. In §§ 1218.71 and 1218.72 the word "blueberries" is removed and the words "cultivated blueberries" are added in its place wherever it appears.

Dated: September 15, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00-24219 Filed 9-20-00; 8:45 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Parts 71 and 85**

**[Docket No. 98-023-1]**

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

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to establish an alternative to the current requirements for moving swine interstate. Under this alternative, persons may move swine interstate without meeting individual swine identification and certain other requirements if they move the swine within a single swine production system, and if swine producers participating in that system sign agreements with the Animal and Plant Health Inspection Service and involved State governments to monitor the health of animals moving within the swine production system and to facilitate traceback of these animals if necessary. This action would facilitate the interstate movement of swine while continuing to provide protection against the interstate spread of swine diseases. This action would affect persons engaged in swine production who regularly move swine interstate in their business operations.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by November 20, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 98-023-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 98-023-1.

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. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road, Unit 43, Riverdale, MD 20737-1231; (301) 734-4916.

**SUPPLEMENTARY INFORMATION:**

**Background**

The swine production industry has dramatically changed its business practices and operating procedures over the last generation. Fifty years ago swine production facilities were mainly small operations that typically produced a small number of swine (up to a few hundred). Often the same premises would breed swine, farrow them, wean the offspring, and feed them until they reached slaughter weight. Today, market economies have resulted in specialization that has created separate operations, often on separate premises, for the three stages of swine production—sow herds, nursery herds, and growing or finishing herds. Piglets are born and weaned in a sow herd, moved to a nursery herd for several weeks, then moved to a growing herd where they are fed until they reach slaughter weight after about 180 days.

A single producer may own all three types of facilities, or may have standing relationships with facilities owned by another producer. The result is that swine may move through all three types of herds, often crossing State lines in the process, either without changing ownership, or changing ownership but remaining under the control of a single producer. This swine production model is distinctly different from the commercial model reflected in the current Animal and Plant Health Inspection Service (APHIS) regulations for interstate movement of swine. When those regulations were written, swine (other than valued breeding stock) were generally moved interstate only when a change in ownership occurred, usually when they were shipped to slaughter. Today, millions of swine move interstate while they are raised for slaughter or breeding under a swine production system, and while they remain under the control of a single owner or a group of contractually related owners. In response to these changes in commercial practice, APHIS is reexamining its regulations for moving swine interstate, including requirements for swine identification and health certificates, to determine what requirements should apply to

swine moving interstate within a swine production system.

The regulations in subchapter C of chapter I, title 9, Code of Federal Regulations, govern the interstate movement of animals to prevent the dissemination of livestock and poultry diseases in the United States. Parts 71 and 85 (referred to below as the regulations) are included in subchapter

C. Part 71 relates to the interstate transportation of animals, poultry, and animal products and includes animal identification requirements for swine moving interstate. Part 85 imposes requirements to control the spread of pseudorabies and includes health certificate and other requirements for the interstate movement of swine. The

requirements of parts 71 and 85 that are relevant to this proposed rule are summarized in the following chart. This chart does not include the current requirements for swine moved interstate solely for slaughter, or to livestock markets for sale to slaughter, since this proposed rule would not change those requirements.

Section	Purpose of interstate movement	Type of swine to be moved	Requirements for interstate movement
§ 71.19(a) .....	Slaughter and non-slaughter.	Other than § 71.19(c), which covers swine moved as a group from the premises where they were born directly to slaughter.	Official identification applied no later than the first of the following events: Point of first commingling in interstate movement with swine from another source; upon unloading in interstate commerce at any livestock market; upon transfer of ownership in interstate commerce; or upon arrival in interstate commerce at the final destination.
§ 85.7(b)(1) .....	Nonslaughter .....	Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from a qualified pseudorabies negative herd directly to a feedlot, quarantined feedlot, or quarantined herd.	No identification requirement.
§ 85.7(b)(2) .....	Nonslaughter .....	Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from any herd directly to a feedlot, quarantined feedlot, or quarantined herd.	Accompanied by a certificate that is delivered to the consignee that describes the identification required by § 71.19 and states that each animal: (A) was subjected to an official pseudorabies serologic test within 30 days prior to the interstate movement and was found negative, the test date, and the name of the laboratory that conducted the test; or (B) is part of a currently recognized qualified pseudorabies negative herd, and the date of the last qualifying test; or (C) is part of a pseudorabies controlled vaccinated herd and is one of the offspring that was subjected to the official pseudorabies serologic test, and the date of the last test to maintain that status.
§ 85.7(b)(3) .....	Nonslaughter .....	Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from any herd directly to a feedlot, quarantined feedlot, or quarantined herd, when moved from a State which requires the State animal health official to be immediately notified of any suspected or confirmed case of pseudorabies in that State and which requires that exposed or infected livestock be quarantined.	Accompanied by an owner-shipper statement and a certificate that are delivered to the consignee; the certificate describes the identification required by § 71.19; and approval for the interstate movement has been issued by the State animal health official of the State of destination prior to movement.
§ 85.7(c) .....	Nonslaughter .....	Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies, moved interstate from any herd to any destination.	Accompanied by a certificate that is delivered to the consignee that describes the identification required by § 71.19 and states that each animal: (A) was subjected to an official pseudorabies serologic test within 30 days prior to the interstate movement and was found negative, the test date, and the name of the laboratory that conducted the test; or (B) is part of a currently recognized qualified pseudorabies negative herd, and the date of the last qualifying test; or (C) is part of a pseudorabies controlled vaccinated herd and is one of the offspring that was subjected to the official pseudorabies serologic test, and the date of the last test to maintain that status.
§ 85.8(a) .....	Nonslaughter .....	Swine not known to be infected with or exposed to pseudorabies, moved interstate from a qualified negative gene-altered vaccinated herd directly to a feedlot or quarantined feedlot.	No requirement.

Section	Purpose of interstate movement	Type of swine to be moved	Requirements for interstate movement
§ 85.8(b) .....	Nonslaughter .....	All other movements from a qualified negative gene-altered vaccinated herd of swine not known to be infected with or exposed to pseudorabies.	Accompanied by a certificate that is delivered to the consignee that describes the identification required by § 71.19 and that states: (A) the swine are from a qualified negative gene-altered vaccinated herd; (B) the date of the herd's last qualifying test; and (C) if the swine to be moved are official gene-altered pseudorabies vaccinates, the official gene-altered pseudorabies vaccine used in the herd.

Currently, under § 71.19, swine moved in interstate commerce, except for certain swine moving directly to slaughter, must be individually identified by means approved by the APHIS Administrator and listed in § 71.19(b). Under §§ 85.7 and 85.8, swine moved in interstate commerce must also meet requirements to prevent the spread of pseudorabies. With a few exceptions, §§ 85.7 and 85.8 require that swine moved interstate be accompanied by a certificate that contains certain statements about the animals' pseudorabies status.

This proposed rule would not replace the requirements described above; swine producers (owners of sow farms, nurseries, and finishing operations) could continue to move swine interstate in accordance with these requirements. We are proposing to amend parts 71 and 85 by providing an alternative to these requirements. This alternative could be used by any swine producer who moves swine interstate in the course of operations. Under the proposed alternative, producers could move swine interstate without meeting the requirements for individual identification and certification. However, State animal health officials in both the sending and receiving States would have to agree to allow the movement of swine according to this proposed alternative by signing a swine production health plan, described below. Movement under this proposed alternative would not be allowed to or from States that do not agree to the proposed provisions. In those States that do not agree to this proposed alternative, swine moving interstate would have to move in accordance with the current requirements for individual animal identification and certification.

We anticipate that the proposed alternative would be used primarily for the movement of swine being raised for slaughter, but breeder swine would also be allowed to move under the proposed alternative. However, the proposed alternative would not apply to the final movement of swine to slaughter or to livestock markets for sale to slaughter; such swine would have to meet the current requirements for individual

animal identification and certification. We do not propose to allow this new alternative for swine moving in slaughter channels because the alternative is designed for swine moving within a production system where they are under control of a single owner, or a group of contractually connected owners. When swine move to slaughter, they come under the control of a larger and diverse group of markets, transporters, brokers, etc., that do not have consistent and unified control over the animals—a necessary ingredient of the proposed alternative described below.

If this proposal is adopted, producers, under this alternative could move swine interstate from sow farms to nurseries to growing or finishing operations without individually identifying the animals or obtaining health certificates for them if they meet the following requirements, discussed in detail below:

- The producers have a written *swine production health plan* (SPHP) signed by the producer(s), the accredited veterinarian(s) for the premises, APHIS, and the States in which the swine production system has premises.
- One or more *accredited veterinarians* identified in the SPHP will regularly visit each premises in the swine production system to inspect and test swine and will continually monitor the health of the swine in the swine production system. Swine may only be moved interstate if they have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian.
- The SPHP describes a *records system* maintained by the producers to document that health status.
- Prior to each interstate movement of swine between premises within a production system, an *interstate swine movement report* must be sent to APHIS, the accredited veterinarian for the premises, and the sending and receiving States documenting the number, type, and health status of the swine being moved.

### Swine Production Health Plan

A central feature of this proposal would be the SPHP. In effect, the SPHP would be an enduring agreement maintained on file with swine producers, affected States, and APHIS, that takes the place of individual health certificates or State permits that would otherwise be required to accompany the movement of swine.

The SPHP would be a written plan developed for all premises in a swine production system to maintain the health of the swine and detect signs of communicable disease. The SPHP would have to identify all premises that are part of the swine production system and provide for an accredited veterinarian to perform regular inspections of all premises and swine on the premises at intervals no greater than 30 days. The SPHP would also provide that, upon request, APHIS representatives and State animal health officials will have access to any premises in a swine production system to inspect animals and review records. The SPHP would also have to authorize access for the accredited veterinarian(s) hired by the producer and identified in the SPHP, since the accredited veterinarian(s) would be the person(s) primarily responsible for monitoring and documenting the health of the swine through a system of regular visits to inspect and test the swine. The SPHP would also have to document any specific animal health requirements of a State that is a signatory to the SPHP; for instance, if a State requires that swine moved into that State be tested for particular diseases, or that herds be monitored in particular ways, the SPHP would have to contain those requirements. Additionally, the SPHP would have to describe the recordkeeping system of the swine production system. The SPHP would not be valid unless it is signed by all producers in the swine production system, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. To aid enforcement and compliance, the SPHP would also have

to include a declaration by all producers in the swine production system acknowledging that failure to abide by the provisions of the SPHP and the applicable provisions of the regulations constitutes a basis for the cancellation of the SPHP.

As noted above, the SPHP would not be valid unless it is signed by each producer participating in the swine production system, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. The State animal health official is defined by § 71.1 and § 85.1 as the official responsible for a State's livestock and poultry disease control and eradication programs.

The requirement that a State animal health official must sign and approve each SPHP gives States the opportunity to decide whether or not to allow swine to move from or into their States under the proposed alternative, which eliminates the requirements for a health certificate and individual animal identification. This system would give individual State governments the opportunity to discuss the contents of SPHP's with the owners of swine production systems. This would ensure that each SPHP contains swine health maintenance procedures that will safeguard against health concerns that are of particular importance to that State and ensure that the SPHP is an effective substitute for other paperwork the State might have formerly required, *e.g.*, State certificates of veterinary inspection or health certificates. If a State animal health official does not sign an SPHP, swine in that production system could only move into that State with the paperwork and individual identification currently required by parts 71 and 85.

A State or swine production system could withdraw from an SPHP by giving written notice to the other signatories. Withdrawal shall become effective upon the date specified by the State animal health official or the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. This 7-day delay is proposed to allow arrival of shipments in transit. If one State withdraws from an SPHP signed by other States, a swine production system could not move swine into or from the withdrawing State under the conditions of the canceled SPHP, but the SPHP would remain in effect for the swine production system's premises in other States.

An SPHP could be canceled by the Administrator if the swine production system fails to abide by requirements in the SPHP or other requirements of our regulations. If the Administrator cancels an SPHP, swine in that production system could only move interstate under the other requirements of the regulations, which in many cases would require individual animal identification and health certificates. Finally, the swine production system itself could also cancel an SPHP it has signed at any time, or withdraw one or more of its premises from the SPHP.

#### **Role of Accredited Veterinarian**

The SPHP would have to identify one or more accredited veterinarians who would be under contract with the swine production system to visit all premises within the swine production system at least once every 30 days to conduct general health assessments of the animals. There may be several accredited veterinarians identified in the SPHP, since different veterinarians may serve different premises. These regular visits by the accredited veterinarian(s) would be the primary means of ensuring that swine on a particular premises are maintained in continuing good health, and, therefore, could be safely moved interstate under this alternative. The accredited veterinarian(s) would have to document the health status of swine on a premises with regard to pseudorabies, among other diseases, in records created by the accredited veterinarian and kept by the producer; *e.g.*, a herd inventory with notations documenting the health of the inventoried animals. These records and the proposed interstate swine movement report (ISMR), discussed below, will serve to document the health of animals, rather than individual health certificates.

#### **Records System**

The system of records that would be required is a crucial part of this proposal. It must be effective enough to replace the current requirement for individual identification of swine. Individual swine identification is an important tool used in efforts to trace the movement of diseased swine and identify premises affected by the disease. In order for a records system to substitute for individual animal identification, records of the operations on the premises (*e.g.*, the way animals are assigned to pens and the extent to which different lots are commingled) must allow any animal to be traced back to its previous premises without benefit of individual animal identification. The receiving premises must not commingle

swine received from different premises in a manner that prevents identification of the premises that sent particular swine or groups of swine. We propose that this may be achieved by use of permanent premises or individual identification mark on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means. APHIS would not approve an SPHP unless it described a records system that would adequately document the health of animals on a premises and allow traceback of animals from one premises to another.

We would not dictate the exact type of recordkeeping system that must be used, but the system chosen would need to allow complete traceback of any animal to the previous premises. There are several approaches producers might take to maintain an adequate records system. First, they might choose to use permanent premises or individual animal identification, coupled with shipping records that record the movements of each animal. (While individual animal identification would not be required by this proposal, it could be employed by swine production systems that choose to use it.) Alternatively, all animals on a premises might be marked with a permanent premises identification mark. When the animals are moved to another premises, this mark would indicate which premises they came from. Another approach could be to move animals in intact groups and maintain the groups separately on the new premises, with appropriate records indicating where each group of animals originated. This proposal would allow producers to use any of these approaches or any other effective system that maintains records adequate to trace animals back to their earlier premises.

We also propose to require producers to maintain in their recordkeeping systems copies of the SPHP and all ISMR's that relate to their premises, as well as copies of any reports that the accredited veterinarian issues documenting the health status of the swine on the premises. These records would have to be kept for 3 years after their creation, to provide a historical record in case it is necessary for APHIS to investigate violations of the regulations.

#### **Interstate Swine Movement Report**

We also propose that the swine production system would have to notify its accredited veterinarian(s), APHIS, and State regulatory officials in the States of origin and destination when

swine are ready to be moved interstate. The producer would do this by sending these signatories an ISMR prior to each time swine are moved interstate. APHIS is exploring the possibility that, in some cases, the ISMR could be in electronic rather than a paper form, making it very easy for a producer to meet the ISMR requirement. The ISMR would have to contain the name of the swine production system; the name, location, and premises identification number of the premises from which the swine are to be moved and the premises to which the swine will be moved; the date of movement; and the number, age, and type (e.g., feeder pigs, market hogs, culled sows and boars) of swine to be moved. The ISMR would also have to contain a description of any individual or group identification associated with the swine, the name of the accredited veterinarian who regularly inspects animals on the premises, the pseudorabies status under part 85 of the herd from which the swine are moved, and an accurate statement that swine on the premises have been inspected and found free from signs of communicable disease by the accredited veterinarian within the past 30 days.

#### **Relationship of Proposed Action to Universal Animal Identification Initiatives**

The United States Department of Agriculture and the Food and Drug Administration are currently supporting various initiatives to encourage livestock industries to expand individual identification of animals, in order to assist these agencies in their programs addressing food safety and animal health issues. Agencies addressing these issues often find it useful to be able to trace an animal back from slaughter, through all its intermediate locations, to its farm of origin. One way to provide this tool is to apply a unique identification to each animal soon after birth, and maintain databases of records documenting the movement of each animal until the time of its slaughter or other disposal.

APHIS is involved in testing this lifelong animal identification approach by means of several projects and pilots with groups such as the Livestock Conservation Institute, the dairy industry's National Farm Animal Identification and Records project, various State governments, and other industry associations. However, the current proposal provides an alternative means to reach the same goal, *i.e.*, to provide a way to trace swine from slaughter back to the farm of origin, when necessary. To ensure that such traceback is possible, the proposal uses

a combination of individual animal identification (required when swine make their final interstate movement to slaughter) along with other records and forms discussed in this proposal (e.g., swine production system records and interstate swine movement reports). APHIS remains committed to supporting voluntary industry efforts to adopt universal individual animal identification, but also supports providing alternative tools that provide the information needed for successful traceback of animals.

#### *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.

The Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*) requires agencies to analyze the economic effects of our rules on small entities. Our analysis follows.

This proposed rule would offer an alternative to the current requirements for moving swine interstate.<sup>1</sup> Under the proposal, producers within a single production system (e.g., owners of sow farms, nurseries, and growing or finishing operations) could move swine interstate without meeting the current identification and certification requirements if they: (1) Sign a swine health production plan with APHIS and the sending and receiving States; (2) have an accredited veterinarian visit the premises at least once every 30 days to assess and document the general health of the animals; (3) maintain a recordkeeping system sufficiently adequate to enable APHIS or State inspectors to trace an animal back to its herd of origin; and (4) notify the accredited veterinarian, APHIS, and State regulatory officials in the States of origin and destination when swine are ready to be moved interstate. The proposal would not mandate a specific type of recordkeeping system; those in the production system would be free to choose their own system of records, as long as APHIS determines that the system meets the requirements of § 71.19(h)(6) and effectively documents animal health and allows for animal traceback. Also, the formal written agreement would have to be approved and signed by the producers

<sup>1</sup> The proposal would not apply to swine moving to slaughter; those animals would have to continue to meet the current requirements for individual identification and certification, as applicable.

participating in the swine production system, APHIS, and the relevant States.

The primary economic benefits to producers would be that they could avoid the costs of individually identifying animals and obtaining individual animal health certificates for each shipment. Recordkeeping costs under the current requirements and under this proposed alternative would be comparable, although some different records (copies of SPHP's and ISMR's) would be maintained under the proposed alternative.

The proposed rule would benefit U.S. swine producers who move their animals interstate within a single production system. Currently, such systems are used primarily by the largest producers. Producers would be able to realize the benefits of this rule with little or no additional cost, since many have most of the major elements of the proposed recordkeeping system (records indicating the source and disposition of swine and identifying which swine are grouped together) already in place.

As an example of the potential cost savings for producers from not having to individually identify animals, we estimate that the material cost for each identification eartag is about 5 cents and that it takes one person 1 hour to attach about 250 eartags. For a large producer who moves 1 million swine interstate each year with an eartag, the annual savings if the producer no longer uses eartags would be about \$50,000 in materials and about \$40,000 in labor (assuming a labor rate of \$10/hr.). Health certificates are typically issued on a per shipment basis, with one certificate issued for all swine in a truckload. For a producer who moves 1 million swine interstate each year, the annual cost of obtaining health certificates is about \$140,000 (assuming 250 swine per shipment and a veterinarian fee of \$35 per shipment).<sup>2</sup> Under the proposal, individual identification and health certificates would be replaced by the records kept in accordance with the SPHP and the ISMR's issued for interstate movements attesting that the swine had been found healthy by an accredited veterinarian

<sup>2</sup> Producers, especially the larger ones, typically obtain health certificates from accredited veterinarians who are unaffiliated with APHIS or the State agricultural agencies. The veterinarian fee of \$35 is an estimate based on telephone consultation with several accredited veterinarians; such fees can vary depending on individual circumstances. In some cases, veterinarians charge no fee for issuing a health certificate, especially when they are dealing with producers for whom they provide services on a regular, routine basis.

within the 30 days preceding the interstate movement.

The requirement in the SPHP that an accredited veterinarian must visit the premises at least once every 30 days to assess the general health of the animals would not constitute an additional burden for producers, since most are already visited by a veterinarian on that basis.

As indicated above, the swine production system would eliminate the need for producers to obtain health certificates from accredited veterinarians on an individual shipment basis, a situation which, on the surface, would seem to have a negative impact on the entity's income. However, most accredited veterinarians generate little or no income from issuing health certificates, charging either a nominal fee or no fee at all, especially when they are dealing with producers for whom they provide services on a regular, routine basis. This change should allow them to make more productive use of their time by allowing them to schedule regular health maintenance visits to a facility, rather than visiting when called, possibly at inconvenient times, to issue certificates just prior to movement. This change would also give producers more flexibility in scheduling movements of swine.

#### *Effects on Small Entities*

The proposed rule would primarily benefit U.S. swine producers who move their animals interstate within a single production system. Currently, such systems are used primarily by the largest producers, most of whom do not appear to be small in size by U.S. Small Business Administration (SBA) criteria. The SBA considers a hog farm or feedlot small if its annual receipts are \$0.5 million or less. We estimate that, of the 114,380 hog and pig operations in the United States, no more than about 4 percent (or 4,575) currently participate in multi-State production systems and, of those that do participate, most rank among the industry's largest producers.<sup>3</sup> Census data from the National Agricultural Statistics Service (NASS) indicate that, in 1997, the per farm average value of pigs and hogs sold for the top 4 percent of U.S. farms was in excess of \$0.5 million.<sup>4</sup> NASS' data suggests, therefore, that many of the producers that currently participate in

interstate production systems are not small by SBA standards.

The proposed rule could encourage more small producer participation in the future, since it would provide them with an economic incentive to network together into one production system. For some small producers, especially those operating on thin profit margins, this opportunity to reduce costs via production networks could make the difference between economic viability and insolvency. At this time, however, there is no basis to conclude that the number of small producers who might form networks in the future would be substantial.

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*

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98-023-1. Please send a copy of your comments to: (1) Docket No. 98-023-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full

effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would create three new information collection and recordkeeping requirements. The first is the swine production health plan (SPHP) for each participating swine production system. This written plan would be jointly developed and signed by all the swine producers moving swine within a production system, APHIS, and the involved State animal health officials. This plan would be written when a swine production system is established under the regulations and might be amended by mutual consent from time to time.

This proposed rule would also require that swine producers submit a report, the interstate swine movement report, each time swine are moved interstate from one premises to another. This report would list the number and types of animals moved, identify the premises they are moved from and to, and give the date of movement and certain other information about the swine production system. We expect that an online system will be developed in the near future that will allow a producer to enter the necessary data in an electronic form and automatically route it to the required report recipients.

This proposed rule would also require a system of records each participating producer would have to keep to document the health of animals in the herd and the movement of animals between premises in the swine production system. This record system is needed to ensure that only healthy animals are moved and to allow State or APHIS officials to trace animals back to their premises of origin when necessary.

Except for developing the SPHP, most of this burden involves keeping records or submitting reports of movement data that are already kept by producers in one form or another for normal business purposes. Producers who choose to operate under the proposed system would be freed from two other information collection and recordkeeping burdens that apply under the existing regulations—individual animal identification and health certificates required by parts 71 and 85.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

<sup>3</sup> Sources: Agricultural Statistics, 1999. The hog and pig operation count is as of December 1, 1998.

<sup>4</sup> See 1997 Census of Agriculture, Vol. 1, Part 51, United States. As used here, the word "top" refers to those farms with the highest number of animals sold.

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 3 minutes per response.

*Respondents:* Swine producers operating within swine production systems.

*Estimated annual number of respondents:* 2,000.

*Estimated annual number of responses per respondent:* 51.

*Estimated annual number of responses:* 51,000.

*Estimated total annual burden on respondents:* 4,500 hours.

It should also be noted that for the purpose of these calculations, we used only the total annual hours necessary to generate the Interstate Swine Movement Reports (4,500 hours), and not the initial 4,000 hours needed to complete the Swine Production Health Plans. The creation of a Swine Production Health Plan is not an annual activity; it is generated only once and then kept on file.

Copies of this information collection can be obtained from: Ms. Laura Cahall, APHIS' Information Collection Coordinator, at (301) 734-5360.

**List of Subjects**

*9 CFR Part 71*

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

*9 CFR Part 85*

Animal diseases, Livestock, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR parts 71 and 85 as follows:

**PART 71—GENERAL PROVISIONS**

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

**Authority:** 21 U.S.C. 111-113, 114a, 114a-1, 115-117, 120-126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

2. In § 71.1, the following definitions would be added in alphabetical order:

**§ 71.1 Definitions.**

\* \* \* \* \*

*Interstate swine movement report.* A paper or electronic document signed by a producer moving swine giving notice that a group of animals is being moved across State lines in a swine production system. This document must contain the name of the swine production system, the name, location, and premises identification number of the premises from which the swine are to be moved, the name, location, and premises identification number of the premises to which the swine are to be moved, the date of movement, and the number, age, and type of swine to be moved. This document must also contain a description of any individual or group identification associated with the swine, the name of the swine production system accredited veterinarians, the pseudorabies status under part 85 of this chapter of the herd from which the swine are to be moved, and an accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system accredited veterinarian(s) within 30 days prior to the interstate movement and consistent with the dates specified by the premises' swine production health plan and found free from signs of communicable disease.

\* \* \* \* \*

*Swine production health plan.* A written agreement developed for one or more premises in a swine production system designed to maintain the health of the swine and detect signs of communicable disease. The plan must identify all premises that are part of the swine production system and must provide for regular inspections of all premises and swine on the premises, at intervals no greater than 30 days, by the swine production system accredited veterinarian(s). The plan must also describe the recordkeeping system of the swine production system. The plan must also list any specific animal health requirements of States that are signatory to the plan. The plan will not be valid unless it is signed by all of the producers participating in the swine production system, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. In the plan, the producer moving the swine must acknowledge that he or she has been informed of and understands that failure to abide by the

provisions of the plan and the applicable provisions of this part and part 85 constitutes a basis for the cancellation of the swine production health plan.

*Swine production system.* A swine production enterprise that consists of multiple sites of production, i.e., sow herds, nursery herds, and growing or finishing herds, that are connected by ownership or contractual relationships, between which swine move while remaining under the control of a single owner or a group of contractually connected owners.

*Swine production system accredited veterinarian.* An accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.

\* \* \* \* \*

3. Section 71.19 would be amended as follows:

a. In paragraph (a)(1), introductory text, by removing the words "paragraph (c)" and adding in their place the words "paragraphs (c) and (h)".

b. By adding new paragraphs (h) and (i).

**§ 71.19 Identification of swine in interstate commerce.**

\* \* \* \* \*

(h) *Swine moving interstate within a swine production system.* Swine within a swine production system are not required to be individually identified when moved in interstate commerce under the following conditions:

(1) The swine may be moved interstate only to another premises owned and operated by the same swine production system.

(2) The swine production system must operate under a valid swine production health plan, in which both the sending and receiving States have agreed to allow the movement.

(3) The swine must have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian(s).

(4) Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:

- (i) The APHIS representative;
- (ii) The swine production system accredited veterinarian for the premises from which the swine are to be moved; and,

(iii) The State animal health officials for the sending and receiving States, and any other State employees designated by the State animal health officials.

(5) The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This may be achieved by use of permanent premises or individual identification marks on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means.

(6) Each premises must maintain, for 3 years after their date of creation, records that will allow an APHIS representative or State animal health official to trace any animal on the premises back to its earlier premises and its herd of origin, and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system accredited veterinarian(s) issue documenting the health status of the swine on the premises.

(7) Each premises must allow APHIS representatives and State animal health officials access to the premises upon request to inspect animals and review records.

(i) *Cancellation of and withdrawal from a swine production health plan.* The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

(1) A State animal health official may cancel his or her State's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the State animal health official in the notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. Upon withdrawal of a State, the swine production health plan shall continue to operate among the other States and parties signatory to the plan.

(2) A swine production system may cancel a swine production health plan, or withdraw one or more of its premises from participation in the plan, upon giving written notice to the Administrator and to the accredited veterinarians and State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit withdrawal shall

become effective 7 days after the date of such notice.

(3) The Administrator may cancel a swine production health plan by giving written notice to all swine producers, accredited veterinarians, and State animal health officials listed in the plan. The Administrator shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this chapter. Before a swine health production plan is canceled, an APHIS representative will inform a representative of the swine production system of the reasons for the proposed cancellation. The swine production system may appeal the proposed cancellation in writing to the Administrator within 10 days after being informed of the reasons for the proposed cancellation. The appeal must include all of the facts and reasons upon which the swine production system relies to show that the reasons for the proposed cancellation are incorrect or do not support the cancellation. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, cancellation of the disputed swine production health plan shall become effective pending final determination in the proceeding if the Administrator determines that such action is necessary to protect the public's health, interest, or safety. Such cancellation shall become effective upon oral or written notification, whichever is earlier, to the swine production system representative. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

#### PART 85—PSEUDORABIES

1. The authority citation for part 85 would be revised to read as follows:

**Authority:** 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

##### § 85.7 [Amended]

2. Section 85.7 would be amended as follows:

a. In paragraph (b)(3)(i) introductory text, by removing the phrase “The swine” and adding in its place the phrase “Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine”.

b. In paragraph (b)(3)(ii), by removing the phrase “The swine are accompanied by a certificate” and adding in its place the phrase “Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine are accompanied by a certificate”.

c. In paragraph (c)(1), by removing the phrase “The swine are accompanied by a certificate” and adding in its place the phrase “Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine are accompanied by a certificate”.

3. Section 85.8 would be amended by removing the period at the end of paragraph (a)(3) and adding in its place “; or”; and by adding a new paragraph (a)(4) to read as follows:

#### § 85.8 Interstate movement of swine from a qualified negative gene-altered vaccinated herd.

(a) \* \* \*

(4) The swine are moved interstate in a swine production system in compliance with § 71.19(h) of this chapter.

\* \* \* \* \*

Done in Washington, DC, this 14th day of September 2000.

**Bobby R. Acord,**

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

[FR Doc. 00–24132 Filed 9–20–00; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99–CE–88–AD]

RIN 2120–AA64

#### Airworthiness Directives; DG Flugzeugbau GmbH Models DG–500 Elan Series, DG–500M, and DG–500MB Sailplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain DG Flugzeugbau (DG Flugzeugbau) GmbH