

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 9 CFR Part 201

RIN 0580-AB01

#### Swine Contractors

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We propose to add “swine contractors” to the list of regulated entities subject to specific regulations under the Packers and Stockyards Act (the P&S Act). In 2002, Congress added swine contractors as entities regulated under the P&S Act. The specific regulations we propose to amend prohibit regulated entities from circulating misleading reports about market conditions or prices. We also propose to amend regulations that address inspection of business records and facilities, information that regulated entities are required to share with the Secretary of Agriculture, and USDA’s responsibility to refrain from unauthorized disclosure of that information. The goal of these regulations is to ensure fairness in the marketing of livestock, meat, and poultry. Adding swine contractors to specific regulations under the P&S Act will assist swine contractors and swine production contract growers with determining which regulations apply to them. Adding swine contractors to specific regulations will also make it easier for GIPSA to identify potential violations and to enforce the provisions of the P&S Act and regulations.

**DATES:** We will consider comments we receive by April 8, 2008.

**ADDRESSES:** We invite you to submit comments on this proposed rule. You may submit comments by any of the following methods:

- E-Mail: Send comments via electronic mail to [comments.gipsa@usda.gov](mailto:comments.gipsa@usda.gov).

- Mail: Send hardcopy written comments to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643-S, Washington, DC 20250-3604.

- Fax: Send comments by facsimile transmission to: (202) 690-2173.

- Hand Delivery or Courier: Deliver comments to: Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1643-S, Washington, DC 20250-3604.

- Federal e-Rulemaking Portal: Go to <http://www.regulation.gov>. Follow the on-line instruction for submitting comments.

*Instructions:* All comments should make reference to the date and page number of this issue of the **Federal Register**.

*Background Documents:* Regulatory analyses and other documents relating to this action will be available for public inspection in Room 1643-S, 1400 Independence Avenue, SW., Washington, DC 20250-3604 during regular business hours.

*Read Comments:* All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)). Please call the GIPSA Management Support Services staff at (202) 720-7486 to arrange a public inspection of comments.

**FOR FURTHER INFORMATION CONTACT:** S. Brett Offutt, Director, Policy and Litigation Division, P&SP, GIPSA, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720-7363, [s.brett.offutt@usda.gov](mailto:s.brett.offutt@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Grain Inspection, Packers and Stockyards Administration (GIPSA) enforces the Packers and Stockyards (P&S) Act of 1921 (the P&S Act). Under authority granted the Secretary of Agriculture (Secretary) and delegated to us, we are authorized (7 U.S.C. 228) to make those regulations necessary to carry out the provisions of the P&S Act.

The Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) amended the P&S Act to define and add “swine contractors” as a regulated entity. A swine contractor is defined as “any person engaged in the business of obtaining swine under a swine production contract for the purpose of slaughtering the swine or selling the swine for slaughter, if (A) the swine is obtained by the person in commerce; or

(B) the swine (including products from the swine) obtained by the person is sold or shipped in commerce.” ((7 U.S.C. 182 (12))

Adding swine contractors to specific regulations under the P&S Act will assist swine contractors and swine production contract growers with determining which regulations apply to them. It will also make it easier for GIPSA to identify potential violations and enforce the provisions of the P&S Act and regulations.

#### Description of Proposed Changes

We now propose to amend the following regulations (9 CFR part 201) under the P&S Act to add the words “swine contractors” to the list of those subject to the regulations:

- Section 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.
- Section 201.94 Information as to business; furnishing of by packers, live poultry dealers, stockyard owners, market agencies, and dealers.
- Section 201.95 Inspection of business records and facilities.
- Section 201.96 Unauthorized disclosure of business information prohibited.

The proposed modification to § 201.53 would inform swine contractors that they are prohibited from knowingly making, issuing, or circulating false or misleading reports, records, or representations about market conditions, about prices, or about the sale of livestock, meat, or live poultry. The proposed modification to § 201.94 would require swine contractors to furnish the Secretary or his duly authorized representatives, if requested by such representatives, with business information required in order to carry out provisions of the P&S Act and regulations in 9 CFR part 201. The proposed modification to § 201.95 would require swine contractors to permit authorized representatives of the Secretary to enter their places of business to examine and copy business records, and to inspect facilities. The proposed modification to § 201.96 would prohibit agents or employees of the United States from disclosing a swine contractor’s business information without the consent of the swine contractor, except in the specific circumstances listed in § 201.96.

## Options Considered

We considered not making these regulatory changes and continuing to protect the interests of swine producers indirectly through regulation of packers, dealers, and market agents. However, that option would not reflect the intent of Congress in amending the P&S Act to give the Secretary authority over swine contractors. We have the authority and the responsibility to directly regulate swine contractors. We could also take legal action against a swine contractor for alleged violations of the P&S Act without amending the regulations. However, that action would not clearly inform all swine contractors and swine production contract growers about the requirements that apply to swine contractors. Issuing the proposed regulations would make it clear to swine contractors and swine production contract growers which parts of the regulations apply to them, and would make it easier for GIPSA to identify potential violators and to enforce provisions of the P&S Act.

## Effects on Regulated Entities

If we implement these regulatory changes, swine contractors will have to open their business records and facilities to authorized representatives of GIPSA upon request. Some swine contractors may have to change their policies to allow access and to accommodate GIPSA representatives. We are not requiring that new information or records be kept by swine contractors, unless existing information or records are false or misleading about market conditions, prices, or sales of livestock, meat, or live poultry. This proposed rule would give swine contractors assurance that business information examined by GIPSA will be kept confidential, except under specific circumstances. Furthermore, swine production contract growers will be given increased assurance of fair treatment by swine contractors.

## Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget (OMB) has designated this rule as not significant for the purposes of Executive Order 12866.

We have determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). The proposed rule will affect swine contractors. Most of these entities are slaughterers or processors of swine with more than 500 employees and do not meet the applicable size

standards for small entities in the Small Business Administration Regulations (13 CFR 121.201). A 2007 study of U.S. pork producers found that firms that market more than 50,000 head of swine per year account for nearly all of contracted swine production in the U.S.

In accordance with 5 U.S.C. 605 of the Regulatory Flexibility Act, we are not providing an initial regulatory flexibility analysis because this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Small swine production contract growers should benefit indirectly from the proposed amendments, which should provide fairness in the marketing of swine and swine products.

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act and we believe that it will not have a significant impact on a substantial number of small entities. We welcome comments on the cost of compliance with this rule, and particularly on the impact of this proposed rule on small entities. We also welcome comments on alternatives to the proposed rule that could achieve the same purpose with less cost or burden.

## Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. These actions are not intended to have retroactive effect. This rule will not pre-empt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

## Paperwork Reduction Act

This proposed rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does not involve collection of new or additional information by the federal government.

## E-Government Act Compliance

GIPSA is committed to complying 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.

## List of Subjects in 9 CFR Part 201

Confidential business information, Reporting and recordkeeping requirements, Stockyards, Trade practices.

For the reasons set forth in the preamble, we propose to amend 9 CFR part 201 to read as follows:

## PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

1. The authority citation for part 201 is revised to read as follows:

**Authority:** 7 U.S.C. 182, 222, and 228, and 7 CFR 2.22 and 2.81.

2. Revise § 201.53 to read as follows:

### § 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.

No packer, swine contractor, live poultry dealer, stockyard owner, market agency, or dealer shall knowingly make, issue, or circulate any false or misleading reports, records, or representation concerning the market conditions or the prices or sale of any livestock, meat, or live poultry.

3. Revise § 201.94 to revise the heading and to read as follows:

### § 201.94 Information as to business; furnishing of by packers, swine contractors, live poultry dealers, stockyard owners, market agencies, and dealers.

Each packer, swine contractor, live poultry dealer, stockyard owner, market agency, and dealer, upon proper request, shall give to the Secretary or his duly authorized representatives in writing or otherwise, and under oath or affirmation if requested by such representatives, any information concerning the business of the packer, swine contractor, live poultry dealer, stockyard owner, market agency, or dealer, or which may be required in order to carry out the provisions of the Act and regulations in this part within such reasonable time as may be specified in the request for such information.

4. Revise § 201.95 to read as follows:

### § 201.95 Inspection of business records and facilities.

Each stockyard owner, market agency, dealer, packer, swine contractor, and live poultry dealer, upon proper request, shall permit authorized representatives of the Secretary to enter its place of business during normal business hours and to examine records pertaining to its business subject to the Act, to make copies thereof and to inspect the facilities of such persons subject to the Act. Reasonable accommodations shall be made available to authorized representatives of the Secretary by the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer for such examination of records and inspection of facilities.

5. Revise § 201.96 to read as follows:

**§ 201.96 Unauthorized disclosure of business information prohibited.**

No agent or employee of the United States shall, without the consent of the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer concerned, divulge or make known in any manner, any facts or information regarding the business of such person acquired through any examination or inspection of the business or records of the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer, or through any information given by the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer pursuant to the Act and regulations, except to such other agents or employees of the United States as may be required to have such knowledge in the regular course of their official duties or except insofar as they may be directed by the Administrator or by a court of competent jurisdiction, or except as they may be otherwise required by law.

**James E. Link,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. E8-2376 Filed 2-7-08; 8:45 am]

BILLING CODE 3410-KD-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2008-0147; Directorate Identifier 2007-NM-294-AD]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes, Equipped with CFM56-7 Engines**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

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

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 737-600, -700, and -800 series airplanes. The existing AD currently requires repetitive inspections to detect damage of the aft strut insulation blanket, and eventual replacement of the insulation blankets with new, improved blankets. This proposed AD would add airplanes to the applicability and require installation of

a new heat insulation blanket and new cover plate on the left and right side engine struts. This proposed AD would not retain the requirements of the existing AD and would terminate the requirements of the existing AD. This proposed AD results from reports of damaged heat insulation blankets on the engine struts. We are proposing this AD to prevent exposure of the lower surface of the strut to extreme high temperatures, consequent creation of a source of fuel ignition, and increased risk of an uncontrollable fire and possible fuel tank explosion.

**DATES:** We must receive comments on this proposed AD by March 24, 2008.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, 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.

For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Kathrine Rask, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6505; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments

to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2008-0147; Directorate Identifier 2007-NM-294-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

**Discussion**

On February 4, 1999, we issued AD 99-04-11, amendment 39-11035 (64 FR 6791, February 11, 1999), for certain Boeing Model 737-600, -700, and -800 series airplanes. That AD requires repetitive inspections to detect damage of the aft strut insulation blanket. That AD also requires eventual replacement of the insulation blankets with new, improved blankets, which constitutes terminating action for the requirements of that AD. That AD resulted from reports of damaged aft strut insulation blankets. We issued that AD to prevent such damage, which could result in exposure of the lower surface of the strut to extreme high temperatures, consequent creation of a source of fuel ignition, and increased risk of an uncontrollable fire and possible fuel tank explosion.

**Actions Since Existing AD Was Issued**

Since we issued AD 99-04-11, we have received reports of failures of the insulation blankets that were installed in accordance with the requirements of that AD. A failed heat insulation blanket might go undetected in that area.

**Relevant Service Information**

We have reviewed Boeing Special Attention Service Bulletin 737-54-1045, dated July 25, 2007. The service bulletin describes procedures for installing a new heat insulation blanket, P/N S315A213-57, and a new cover plate on the left and right side engine struts. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

**FAA's Determination and Requirements of the Proposed AD**

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on