

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 149****[Docket No. APHIS–2020–0065]****RIN 0579–AE59****Elimination of the Voluntary Trichinae Certification Program****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations to eliminate the Animal and Plant Health Inspection Service (APHIS) Voluntary Trichinae Certification Program and remove the regulations associated with the program. This action also notifies the public that APHIS will no longer maintain any activity associated with the program, such as training for qualified accredited veterinarians, on-farm audits, or any other administrative process associated with program maintenance and support. We are eliminating the program because it generates little producer participation. This action allows APHIS to direct APHIS resources to areas of greater need.

**DATES:** Effective October 25, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. María Celia Antognoli, Swine Health Senior Staff Officer, Aquaculture, Swine, Equine and Poultry Health Center, Strategy and Policy, VS, APHIS, 2150 Centre Ave., Bldg. B, Fort Collins, CO 80526–8117; (970) 494–7304; [celia.antognoli@usda.gov](mailto:celia.antognoli@usda.gov).

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

*Trichinella* are parasitic nematodes (roundworms) that are found in many warm-blooded carnivores and omnivores, including swine. There are eight known species of *Trichinella* nematodes: *Trichinella britovi*, *Trichinella murrelli*, *Trichinella nativa*, *Trichinella nelsoni*, *Trichinella papuae*, *Trichinella pseudospiralis*, *Trichinella spiralis*, and *Trichinella zimbabwensis*. Trichinae is a generic term that refers to all species of *Trichinella*.

In 2008, the Animal and Plant Health Inspection Service (APHIS) established the Voluntary Trichinae Certification Program, the regulations for which were contained in 9 CFR part 149. Those regulations provided for the certification of pork production sites that follow certain prescribed management practices that reduce, eliminate, or avoid the risk of exposure of swine to

*Trichinella* spp. Under the regulations, a producer's initial enrollment and continued participation in the Trichinae Certification Program required that the producer adhere to all of the good production practices set out in the regulations, as confirmed by periodic site audits, and comply with other recordkeeping and program requirements provided in part 149.

Producer participation in this voluntary program has decreased since the program began. Only two producers re-enrolled in the past 3 years. The lack of producer interest and involvement has become problematic for a number of reasons. Maintaining the program places demands on limited APHIS funding and human resources that could be better directed elsewhere. In addition, the existence of a program that producers have little interest in has had trade implications. Trading partners have questioned our ability to certify freedom of trichinae in exported products, given that the vast majority of the products are not produced under the auspices of the Trichinae Certification Program.

In a proposed rule<sup>1</sup> published in the **Federal Register** on March 3, 2021, (86 FR 12293–12294; Docket No. APHIS–2020–0065), we proposed to eliminate the Voluntary Trichinae Certification Program by removing part 149 from the regulations. We also notified the public that we would no longer maintain any activity associated with the program, such as training for qualified accredited veterinarians, on-farm audits, or any other administrative process associated with program maintenance and support. The proposed elimination of the program was intended to benefit the swine industry by reducing possible confusion about the trichinae-free status of exported products, while allowing APHIS to avoid incurring the costs associated with program administration and payments to auditors and to address its resources to areas of greater need.

We solicited comments concerning our proposal for 60 days ending May 3, 2021. We received 5 comments by that date. They were from individual commenters without institutional affiliations. All the commenters supported the proposed rule. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

**Executive Order 12866 and Regulatory Flexibility Act**

This final rule has been determined to be not significant for the purposes of

<sup>1</sup>To view the proposed rule, supporting document, and the comments we received, go to [www.regulations.gov](http://www.regulations.gov). Enter APHIS–2020–0065 in the Search field.

Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the [Regulations.gov](http://Regulations.gov) website (see footnote 1 in this document for a link to [Regulations.gov](http://Regulations.gov)) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

In this final rule, APHIS is eliminating the Voluntary Trichinae Certification Program and removing its associated regulations from title 9 of the Code of Federal Regulations.

Producer participation has decreased significantly since the voluntary program began. Only 2 producers with 23 audit sites re-enrolled in the past 3 years. Continuation of the program given the lack of producer participation is difficult to justify, especially as it may have trade implications. APHIS plays a crucial role in supporting the U.S. pork industry and its exports, which have increased substantially in recent years. Since 2007, U.S. pork exports have more than doubled in value (110 percent increase) and in quantity (109 percent increase). Trading partners, however, have questioned our ability to certify freedom of trichinae in exported products, given that the vast majority of the products are not produced under the auspices of the Voluntary Trichinae Certification Program.

The Small Business Administration (SBA) small business size standard for hog and pig farming is annual revenue of not more than \$1 million. According to the 2017 Agricultural Census, 64,871 hog and pig farms sold over 235 million hogs and pigs, with total sales of \$26.3 billion in 2017. Average annual sales per farm was 3,267 head valued at \$404,907, well below the SBA small-entity standard.

Because the Voluntary Trichinae Certification Program did not progress beyond the pilot stage, the participating producers have not borne program costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with

State and local officials. (See 2 CFR chapter IV.)

#### Executive Order 12988

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

#### Congressional Review Act

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

#### Paperwork Reduction Act

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.*) and will reduce those currently approved by the Office of Management and Budget under control number 0579-0065.

#### List of Subjects in 9 CFR Part 149

Animal diseases, Laboratories, Meat and meat products, Meat inspection, Reporting and recordkeeping requirements, Swine.

#### PART 149—[REMOVED]

■ Accordingly, for the reasons stated in the preamble, and under the authority of 7 U.S.C. 8301 *et seq.*, the Animal and Plant Health Inspection Service is amending 9 CFR chapter I by removing part 149.

Done in Washington, DC, this 10th day of September 2021.

**Jack Shere,**

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

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 107, 120, 142, and 146

RIN 3245-AH57

#### Civil Monetary Penalties Inflation Adjustments

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The Small Business Administration (SBA) is amending its regulations to adjust for inflation the

amount of certain civil monetary penalties that are within the jurisdiction of the agency. These adjustments comply with the requirement in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, to make annual adjustments to the penalties.

**DATES:** This rule is effective September 24, 2021.

**FOR FURTHER INFORMATION CONTACT:** Arlene Embrey, 202-567-1164 or at [arlene.embrey@sba.gov](mailto:arlene.embrey@sba.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Inflation Adjustment Act), Public Law 114-74, 129 Stat. 584, was enacted. This act amended the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 104 Stat. 890 (the 1990 Inflation Adjustment Act), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Inflation Adjustment Act required agencies to issue a final rule by August 1, 2016, to adjust the level of civil monetary penalties with an initial “catch-up” adjustment and to annually adjust these monetary penalties for inflation by January 15 of each subsequent year.

Based on the definition of a “civil monetary penalty” in the 1990 Inflation Adjustment Act, agencies are to make adjustments only to the civil penalties that (i) are for a specific monetary amount as provided by Federal law or have a maximum amount provided for by Federal law; (ii) are assessed or enforced by an agency; and (iii) are enforced or assessed in an administrative proceeding or a civil action in the Federal courts. Therefore, penalties that are stated as a percentage of an indeterminate amount or as a function of a violation (penalties that encompass actual damages incurred) are not to be adjusted.

SBA published in the **Federal Register** an interim final rule with its initial adjustments to the civil monetary penalties, including an initial “catch-up” adjustment, on May 19, 2016, (81 FR 31489) with an effective date of August 1, 2016. SBA published its first annual adjustments to the monetary penalties on February 9, 2017 (82 FR 9967), with an immediate effective date. SBA published its subsequent annual adjustments for 2018 on February 21, 2018 (83 FR 7361), for 2019 on April 1, 2019 (84 FR 12059), and for 2020 on

March 10, 2020 (85 FR 13725), all with immediate effective dates. This rule will establish the adjusted penalty amounts for 2021 with an immediate effective date upon publication.

On December 23, 2020, the Office of Management and Budget (OMB) published its annual guidance memorandum for 2021 civil monetary penalties inflation adjustments (M-21-10, Implementation of Penalty Inflation Adjustments for 2021, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). The memorandum provides the formula for calculating the annual adjustments based on the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October preceding the adjustment, and specifically on the change between the October CPI-U preceding the date of adjustment and the prior year’s CPI-U. Based on this methodology, the 2021 civil monetary penalty inflation adjustment factor is 1.01182 (October 2020 CPI-U (260.388)/October 2019 CPI-U (257.346)). The annual adjustment amounts identified in this rule were obtained by applying this multiplier of 1.01182 to those penalty amounts that were published in SBA’s 2020 adjustments to civil monetary penalties at 85 FR 13725 (March 10, 2020) and to the civil monetary penalty found at 13 CFR 120.1500(b)(2), first published March 16, 2020, at 85 FR 14783.

##### II. Civil Money Penalties Adjusted by This Rule

This rule adjusts civil monetary penalties authorized by the Small Business Act, the Small Business Investment Act of 1958 (SBIAct), the Program Fraud Civil Remedies Act, and the Byrd Amendment to the Federal Regulation of Lobbying Act. These penalties and the implementing regulations are discussed below.

###### 1. 13 CFR 107.665—Civil Penalties.

SBA licenses, regulates, and provides financial assistance to financial entities called small business investment companies (SBICs). Pursuant to section 315 of the SBIAct, 15 U.S.C. 687g, SBA may impose a penalty on any SBIC for each day that it fails to comply with SBA’s regulations or directives governing the filing of regular or special reports. The penalty for non-compliance is incorporated in § 107.665 of the SBIC program regulations.

This rule amends § 107.665 to adjust the current civil penalty from \$271 to \$274 per day of failure to file. The current civil penalty of \$271 was multiplied by the multiplier of 1.01182 to reach a product of \$274, rounded to the nearest dollar.