geographical confines of the Ninth Circuit currently follow *Purba* and will continue to follow the law of that circuit.

Commenters also raised practical concerns with telephonic and video electronic media hearings. Given the nature of immigration proceedings, they correctly note that parties are often unable to communicate proficiently in the English language. These comments posit that telephonic and video electronic media hearings would further impair communication. The caliber of today's technology, the requirement for party consent in critical telephonic merit hearings, the prudent use of Immigration Judge discretion, and the availability of procedural vehicles for review of Immigration Judge decisions sufficiently safeguard non-English speakers from potential prejudice.

The final rule codifies some of the current practices of Immigration Judges holding telephonic hearings at their discretion and extends these practices to video electronic media hearings. The final rule also codifies a limitation on Immigration Judge discretion to conduct certain telephonic hearings. The final rule allows implementation of modern technology in order to increase procedural efficiency while protecting parties' due process rights. The rule assists the Agency in carrying out the country's immigration policy in an equitable and productive manner.

The final rule also makes minor technical changes in paragraph 9a) to conform with the *in absentia* provisions of 8 U.S.C. 1252.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, § 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget. This rule has no Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order No. 12612. The rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Immigration and Naturalization Service, Organization and functions (government agencies).

Accordingly, 8 CFR part 3 is amended as set forth below:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1362; 28 U.S.C. 509, 510, 1746; Section 2, Reorganization Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2. Section 3.25 is revised to read as follows:

§ 3.25 Waiver of presence of the parties.

(a) *Good cause shown.* The Immigration Judge may, for good cause, waive the presence of a respondent/applicant at the hearing when the alien is represented or when the alien is a minor child at least one of whose parents or whose legal guardian is present. In addition, *in absentia* hearings may be held pursuant to sections 1252(b) and 1252b(c) of title 8, United States Code with or without representation.

(b) *Stipulated request for order; waiver of hearing.* Notwithstanding any other provision of this chapter, upon the written request of the respondent/applicant and upon concurrence of the government, the Immigration Judge may conduct hearings in the absence of the parties and enter an order of deportation or exclusion on the written record if the Immigration Judge determines, upon a review of the charging document, stipulation document, and supporting documents, if any, that a represented respondent/applicant voluntarily, knowingly, and intelligently entered into a stipulated request for an order of deportation or exclusion. The stipulation document shall include:

(1) An admission that all factual allegations contained in the charging document are true and correct as written;

(2) A concession of deportability or excludability as charged;

(3) A statement that the respondent/applicant makes no application for relief from deportation or exclusion, including, but not limited to, voluntary departure, asylum, adjustment of status, registry, de novo review of a termination of conditional resident status, de novo review of a denial or revocation of temporary protected status, relief under 8 U.S.C. 1182(c), suspension of deportation, or any other possible relief under the Act;

(4) A designation of a country for deportation under 8 U.S.C. 1253(a);

(5) A concession to the introduction of the written statements of the respondent/applicant as an exhibit to the record or proceedings;

(6) A statement that the attorney/representative has explained the consequences of the stipulated request to the respondent/applicant and that the respondent/applicant enters the request voluntarily, knowingly and intelligently;

(7) A statement that the respondent/applicant will accept a written order for his or her deportation or exclusion as a final disposition of the proceedings; and

(8) A waiver of appeal of the written order of deportation or exclusion.

The stipulated request and required waivers shall be signed on behalf of the government and by both the respondent/applicant and his or her attorney or other representative qualified under part 292 of this chapter. The attorney or other representative shall file a Notice of Appearance in accordance with § 3.16(b) of this part.

(c) *Telephonic or video electronic media hearing.* An Immigration Judge may conduct hearings via video electronic media or by telephonic media in any proceeding under 8 U.S.C. 1226, 1252, or 1256, except that contested full evidentiary hearings on the merits may be conducted by telephonic media only with the consent of the alien.

Dated: May 8, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–12080 Filed 5–16–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 85

[Docket No. 94–064–2]

Official Pseudorabies Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the pseudorabies regulations by adding the glycoprotein I enzyme-linked immunosorbent assay approved differential test to the list of official pseudorabies tests. This rule will allow, under certain conditions, the glycoprotein I enzyme-linked immunosorbent assay approved differential test to be used as an official pseudorabies test to qualify certain pseudorabies vaccinated swine for interstate movement to destinations other than slaughter or a quarantined herd or quarantined feedlot. Adding the glycoprotein I enzyme-linked immunosorbent assay approved differential test to the list of official

pseudorabies tests will also allow its use for the testing of nonvaccinated swine.

EFFECTIVE DATE: June 16, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold C. Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, Suite 3A01, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–7767.

SUPPLEMENTARY INFORMATION:

Background

Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine, and other animals. The disease, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus. The Animal and Plant Health Inspection Service's regulations in 9 CFR part 85 (referred to below as the regulations) govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies.

For the purposes of interstate movement, the regulations separate swine into four basic categories: (1) Swine infected with or exposed to pseudorabies; (2) pseudorabies vaccinated swine (except swine from qualified negative gene-altered vaccinated herds) not known to be infected with or exposed to pseudorabies; (3) swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies; and (4) swine from qualified negative gene-altered vaccinated herds. Provisions governing the interstate movement of swine from each category are found in §§ 85.5, 85.6, 85.7, and 85.8, respectively.

On January 31, 1995, we published in the **Federal Register** (60 FR 5876–5880, Docket No. 94–064–1) a proposal to amend the regulations governing the interstate movement of certain pseudorabies vaccinated swine by adding the glycoprotein I (gpI) enzyme-linked immunosorbent assay (ELISA) approved differential test to the list of official pseudorabies tests. We also proposed to amend the definition of *certificate* and add provisions to allow, under certain conditions, the gpI ELISA approved differential test to be used as an official test to qualify certain pseudorabies vaccinated swine for interstate movement to destinations other than slaughter, quarantined herds, or quarantined feedlots.

We solicited comments concerning our proposal for 60 days ending April 3, 1995. We received three comments by that date. They were from a State agriculture agency, a national veterinary association, and a pharmaceutical company. Two of the commenters supported the proposed rule without reservation. The third commenter, however, expressed concern regarding the use of a term in the proposed regulations. Specifically, the commenter noted that the proposed rule referred to gpI-deleted pseudorabies vaccines as ''gene-altered'' pseudorabies vaccines, which he felt inferred that only genetically engineered gpI deletions would be acceptable, to the exclusion of natural gpI gene-deleted pseudorabies vaccines.

We believe that our use of the term ''gene-altered'' does not exclude natural gpI gene-deleted pseudorabies vaccines. The gpI-deleted pseudorabies vaccine is an official gene-altered pseudorabies vaccine. The regulations in § 85.1 define *official gene-altered pseudorabies vaccine* as ''[a]ny official pseudorabies vaccine for which there is an approved differential pseudorabies test,'' and *official pseudorabies vaccine* is defined as ''[a]ny pseudorabies virus vaccine produced under license from the Secretary of Agriculture under the Virus, Serum and Toxin Act of March 4, 1913, and any legislation amendatory thereof (21 U.S.C. 151 *et seq.*).'' Neither definition contains a requirement that an official gene-altered pseudorabies vaccine be the product of genetic engineering, so we have made no changes in this final rule based on that comment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This final rule amends the pseudorabies regulations to allow, under certain conditions, swine vaccinated with a gpI-deleted gene-altered pseudorabies vaccine, but that are not from a qualified negative gene-altered vaccinated herd, to be moved interstate to destinations other than slaughter or a quarantined herd or quarantined feedlot. This final rule also allows the use of the gpI ELISA test to determine the pseudorabies status of nonvaccinated swine.

In December 1993, there were 235,840 swine operations in the United States, with a total inventory of about 56.8 million head. The value of the total swine inventory was estimated to be about $4.3 billion (Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, ''Hogs and Pigs,'' December 29, 1993). We believe that about 99 percent of all domestic swine operations would be considered small entities.

We estimate that there are approximately 25,000 domestic swine herds that contain vaccinated animals. Of those herds, there are only about 250 qualified negative gene-altered vaccinated herds. The provisions of this rule pertaining to individual swine vaccinated with the gpI-deleted pseudorabies vaccine (referred to below as gpI vaccinates) will have an economic impact only on the owners of gpI vaccinates that are not part of a qualified negative gene-altered herd. Because there have been no provisions for the interstate movement of gpI vaccinates that are not part of a qualified negative gene-altered herd to destinations other than slaughter, quarantined herds, or quarantined feedlots, this rule will have the effect of opening up new markets for the owners of such swine. Testing costs will be incurred only when an owner chooses to move gpI vaccinates interstate to destinations other than slaughter or a quarantined herd or quarantined feedlot, since pseudorabies vaccinated swine do not require a test prior to interstate movement for slaughter or to a quarantined herd or quarantined feedlot. We expect that swine owners will accept the costs of testing with the gpI ELISA test if they feel the economic opportunities afforded by the new markets balance or outweigh the costs associated with the interstate movement.

The provisions of this rule that allow the use of the gpI ELISA test to determine the pseudorabies status of nonvaccinated swine will not have a significant economic impact on the owners of nonvaccinated swine. Although the gpI ELISA test costs from $0.50 to $1.00 more per test than other official serologic tests used to determine the pseudorabies status of nonvaccinated swine, its use to test nonvaccinated swine will be optional. It is likely, therefore, that most owners of nonvaccinated swine will continue using less expensive official pseudorabies tests until the cost of the gpI ELISA test becomes comparable to that of other official tests.

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 12778

This rule has been reviewed under Executive Order 12778, 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

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0070.

List of Subjects in 9 CFR Part 85

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

Accordingly, 9 CFR part 85 is amended to read as follows:

PART 85—PSEUDORABIES

1. The authority citation for part 85 continues to read as follows:

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 85.1 [Amended]

2. In § 85.1, in the definition of *certificate*, the first sentence is amended by adding the words ''vaccinated with a glycoprotein I (gpI) deleted gene-altered pseudorabies vaccine or'' immediately after the words ''gene-altered pseudorabies vaccinates''.

3. In § 85.1, in the definition of *official pseudorabies test*, in the second sentence, item 4 is amended by adding the words ''other than the glycoprotein I (gpI) ELISA test'' immediately after the word ''tests''.

4. In § 85.6, a new paragraph (c) is added to read as follows:

§ 85.6 Interstate movement of pseudorabies vaccinate swine, except swine from qualified negative gene-altered herds, not known to be infected with or exposed to pseudorabies.

* * * * *

(c) *General movements.* Swine vaccinated for pseudorabies with a glycoprotein I (gpI) deleted gene-altered pseudorabies vaccine and not known to be infected with or exposed to pseudorabies, but that are not from a qualified negative gene-altered vaccinated herd, may be moved interstate to destinations other than those set forth in paragraphs (a) and (b) of this section only if:

(1) The swine are accompanied by a certificate and such certificate is delivered to the consignee; and

(2) The certificate, in addition to the information described in § 85.1, states:

(i) The identification required by § 71.19 of this chapter;

(ii) That each animal to be moved was vaccinated for pseudorabies with a gpI-deleted gene-altered pseudorabies vaccine;

(iii) That each animal to be moved was subjected to a gpI enzyme-linked immunosorbent assay (ELISA) approved differential pseudorabies test no more than 30 days prior to the interstate movement and was found negative;

(iv) The date of the gpI ELISA approved differential pseudorabies test; and

(v) The name of the laboratory that conducted the gpI ELISA approved differential pseudorabies test.

Done in Washington, DC, this 11th day of May 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–12149 Filed 5–16–95; 8:45 am]

BILLING CODE 3410–34–P

Animal and Plant Health Inspection Service, USDA

9 CFR Parts 92 and 98

[Docket No. 94–087–2]

Canadian Border Ports; Baudette, MN

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On March 29, 1995, the Animal and Plant Health Inspection Service published a direct final rule. (See 60 FR 16043–16045). The direct final rule notified the public of our intention to amend the animal importation regulations by adding Baudette, MN, as a Canadian border port for pet birds, poultry, horses, ruminants, swine, and germ plasm. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as May 30, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. David Vogt, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8172.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 11th day of May 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–12153 Filed 5–16–95; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11 and 25

RIN 3150–AF21

NRC Licensee Renewal/ Reinvestigation Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to eliminate the five-year expiration date for licensee ''U'' and ''R'' special nuclear material access authorizations and ''Q'' and ''L'' access authorizations and to require the licensee to submit NRC renewal application paperwork only for an individual who has not been reinvestigated by the Department of Energy (DOE) or another Federal agency within the five-seven year span permitted in the regulations. This final rule is necessary to achieve administrative efficiencies that reduce paperwork and cut red tape in a manner that is consistent with National Performance Review initiatives.

EFFECTIVE DATE: June 16, 1995.

FOR FURTHER INFORMATION CONTACT: James J. Dunleavy, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 telephone (301) 415–7404.

SUPPLEMENTARY INFORMATION: The NRC currently requires ''U'' and ''R'' special nuclear material access authorizations and ''Q'' and ''L'' access authorizations