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DEPARTMENT OF JUSTICE

8 CFR Part 3

[EOIR No. 110F; AG Order No. 1997-95]

RIN 1125-AA11

Executive Office for Immigration Review; Board of Immigration Appeals Adjudication Procedures

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the Department's regulation on the general authorities of the Board of Immigration Appeals (Board) to expand the circumstances under which the Chairman of the Board may designate the Chief Attorney Examiner of the Executive Office for Immigration Review (EOIR) as an Alternate Board Member. This final rule also changes the Board's procedure for adjudicating certain types of motions, specifically, unopposed motions and motions to withdraw an appeal. This final rule is necessary to ensure the effective and efficient operation of the Board.

EFFECTIVE DATE: This final rule is effective November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305-0470.

SUPPLEMENTARY INFORMATION: The Chief Attorney Examiner presently serves as an Alternate Board Member in instances where a Board Member or Members are absent or unavailable and his participation is deemed necessary by the Chairman. This rule will expand the circumstances under which the Chairman may designate the Chief Attorney Examiner as an Alternate Board Member by also enabling the Chairman to do so for good cause. This

change will increase the Board's flexibility and efficiency.

Additionally, this rule changes the procedure for adjudicating certain types of motions, specifically, unopposed motions and motions to withdraw an appeal. Presently, the Chairman may divide the Board into three-member panels and each panel is empowered to review cases by majority vote. A majority of the number of Board Members authorized to constitute a panel constitutes a quorum for such panel. This rule will allow a single Board Member or the Chief Attorney Examiner to adjudicate both motions that are unopposed by the non-moving party and motions that request withdrawal of an appeal pending before the Board. Motions that are unopposed by the non-moving party and motions to withdraw an appeal do not present a case or controversy requiring review by a three-member panel. Permitting such motions to be adjudicated by a single Board Member or the Chief Attorney Examiner will promote the effectiveness and efficiency of the Board's adjudication process while maintaining appropriate consideration of every motion filed with the Board.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not necessary because this rule relates to rules of agency procedure and practice.

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, 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 merits 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, Organization and functions (Government agencies).

For the reasons set forth in the preamble, 8 CFR part 3 is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Subpart A—Board of Immigration Appeals

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; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949-1953 Comp., p. 1002.

2. Section 3.1 is amended by adding a new sentence after the 11th sentence in paragraph (a)(1) and revising the 4th sentence in paragraph (a)(2) to read as follows:

§ 3.1 General authorities.

(a)(1) *Organization.* * * * In the case of an unopposed motion or a motion to withdraw an appeal pending before the Board, a single Board Member or the Chief Attorney Examiner may exercise the appropriate authority of the Board as set out in part 3 that is necessary for the adjudication of such motions before it. * * *

(2) *Chairman.* * * * The Chief Attorney Examiner shall serve as an Alternate Board Member when, in the absence or unavailability of a Board Member or Members or for other good cause, his participation is deemed necessary by the Chairman. * * *

* * * * *
Dated: November 7, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95-28128 Filed 11-14-95; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 95-037-2]

Pork and Pork Products From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule allows fresh, chilled, and frozen pork and pork products from the Mexican State of Chihuahua to transit the United States,

under certain conditions, for export to another country. Previously, we allowed such pork and pork products only from the Mexican State of Sonora to transit the United States for export. Otherwise, fresh, chilled, or frozen pork and pork products are prohibited movement into the United States from Mexico because of hog cholera in Mexico. Chihuahua, like Sonora, appears to be a low risk area for hog cholera, and we believe that fresh, chilled, and frozen pork and pork products from Chihuahua can transit the United States with minimal risk of introducing hog cholera. This action will facilitate trade.

EFFECTIVE DATE: November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5034.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of certain animal diseases. Section 94.9 of the regulations prohibits the importation of pork and pork products into the United States from countries where hog cholera exists, unless the pork or pork products have been treated in one of several ways, all of which involve heating or curing and drying.

Because hog cholera exists in Mexico, pork and pork products from Mexico must meet the requirements of § 94.9 to be imported into the United States. However, under § 94.15, pork and pork products that are not eligible for entry into the United States in accordance with the regulations may transit the United States for immediate export if certain conditions are met. Prior to the effective date of this final rule, only pork and pork products from Sonora, Mexico, were eligible to transit the United States in accordance with § 94.15.

On August 21, 1995, we published in the Federal Register (60 FR 43409-43411, Docket No. 95-037-1) a proposal to amend the regulations by allowing pork and pork products from the Mexican State of Chihuahua to transit the United States for export under the same conditions as pork and pork products from Sonora.

These conditions were set forth as follows:

1. Any person wishing to transport pork or pork products from Chihuahua through the United States for export must first obtain a permit for importation from the Animal and Plant Health Inspection Service (APHIS).

2. The pork or pork products must be sealed in Chihuahua in a leakproof container, with a serially numbered seal approved by APHIS. The container must remain sealed at all times while transiting the United States.

3. The person moving the pork or pork products through the United States must inform the APHIS officer at the U.S. port of arrival, in writing, of the following information before the pork or pork products arrive in the United States: The times and dates that the pork or pork products are expected at the port of arrival in the United States; the time schedule and route of the shipments through the United States; and the permit number and serial numbers of the seals on the containers.

4. The pork or pork products must transit the United States under Customs bond.

5. The pork or pork products must be exported from the United States within the time period specified on the permit.

Any pork or pork products exceeding the time limit specified on the permit or transiting in violation of any of the requirements of the permit or the regulations may be destroyed or otherwise disposed of at the discretion of the Administrator, APHIS, pursuant to section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111).

We solicited comments concerning our proposal for 60 days ending October 20, 1995. We received one comment by that date. The comment was from a domestic pork industry group. The commenter commended the efforts of Mexican State pork producers in their hog cholera eradication efforts, stated support for the principles of regionalization outlined in the proposed rule, reemphasized the importance of surveillance and control measures to minimize the risk of transmitting hog cholera to the United States swine population, and discussed a related trade issue. The commenter did not recommend any clarification or changes to the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule, without change. Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the Federal Register. Immediate implementation of this rule

is necessary to provide relief to those persons who are adversely affected by restrictions no longer found to be warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the Federal Register.

Executive Order 12866 and Regulatory Flexibility Act

This 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.

This rule allows fresh, chilled, and frozen pork and pork products from the Mexican State of Chihuahua to transit the United States, under certain conditions, for export to another country. It has been determined that Chihuahua is a low risk area for hog cholera and has the veterinary infrastructure necessary to monitor for the presence of this disease.

Because Interstate Commerce Commission regulations forbid Mexican carriers from hauling pork and pork products beyond the border zone, small specialized U.S. transport companies and brokerage houses will benefit from this rule. The additional economic activity from such trucking activity is estimated at \$195,865 per year, assuming the trucks make 208 total trips per year (the current level of shipments from the Mexican State of Sonora through the United States).

There appears to be little risk of hog cholera exposure from Mexican pork shipments from Chihuahua through the United States. Assuming that proper risk management techniques continue to be applied in Mexico, and that accident and exposure risk is minimized by proper handling during transport, the risk of exposure to hog cholera from pork in transit from Mexico through the United States is minimal. At a rate of 208 trips per year, an accident that could lead to an outbreak of hog cholera could be expected once in 4,109,139 years. Even at a rate of 1,000 trips per year, one accident capable of resulting in a United States outbreak of hog cholera could be expected once every 854,701 years.

Both the United States and Mexico are net pork importers. United States pork imports represent approximately 2-3 percent of production, and Mexican imports represent 7-8 percent of production. With favorable income growth expected in Mexico due to trade liberalization, meat imports, including pork products, are expected to grow and limit Mexican pork exports. However,

facilitating export opportunities for the Mexican pork industry may provide incentives for continued efforts to eradicate hog cholera from infected Mexican States.

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 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 inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 is revised to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.15 [Amended]

2. In § 94.15, paragraph (b), the introductory text and paragraph (b)(2) are amended by adding the words "Chihuahua or" immediately before the word "Sonora".

Done in Washington, DC, this 2nd day of November 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-28127 Filed 11-14-95; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 4, 10, 11, and 18

Office of the Secretary

31 CFR Part 1

[Docket No. 95-27]

RIN 1557-AA67

Organization and Functions, Availability and Release of Information, Contracting Outreach Program; Municipal Securities Dealers; Securities Exchange Act Disclosure Rules; Disclosure of Financial and Other Information by National Banks; Disclosure of Records

AGENCY: Office of the Comptroller of the Currency and Office of the Secretary, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is revising its rules that describe the agency's organization and functions and govern the availability and release of information in order to facilitate the OCC's interaction with the banking industry and the public. The OCC is also making technical and clarifying amendments to its rules governing municipal securities dealers, disclosures under the Securities Exchange Act, and the disclosure of financial and other information by national banks. Finally, under authority delegated by the Department of the Treasury, the OCC is making minor changes to certain Treasury rules regarding disclosure of records. This final rule is another component of the OCC's Regulation Review Program, which is intended to update and streamline OCC regulations and to reduce unnecessary regulatory costs and other burdens.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew T. Gutierrez, Attorney, Legislative and Regulatory Activities Division, (202) 874-5090 (except with respect to 12 CFR part 4, subpart C); Lester N. Scall, Senior Attorney, Administrative and Internal Law Division, (202) 874-4460, or Daniel L. Cooke, Attorney, Legislative and Regulatory Activities Division, (202) 874-5090 (with respect to 12 CFR part 4, subpart C).

SUPPLEMENTARY INFORMATION:

The Proposal

On March 27, 1995, the OCC published a notice of proposed

rulemaking (60 FR 15705) to revise 12 CFR part 4—the OCC's regulations that describe the agency's organization and functions, govern the availability and release of information, and implement the outreach program for potential OCC contractors.

The proposal sought to further the goals of the Regulation Review Program by updating, clarifying, reorganizing, and streamlining the regulations where appropriate to promote better and more efficient interaction between the OCC and the banking industry and the public at large. The proposal also made technical and clarifying amendments to 12 CFR part 10 (municipal securities dealers), part 11 (Securities Exchange Act disclosure rules), part 18 (disclosure of financial and other information by national banks), and 31 CFR part 1 (disclosure of records).

The Final Rule

The final rule implements the proposal with a few additional changes, which are made generally in response to comments received. The OCC received a total of five comment letters: two from banks, one from a bank trade organization, one from a bank consulting firm, and one from a community group. The community group directed its comments to several aspects of the OCC's corporate application process set forth in 12 CFR part 5. That same community group had previously submitted substantially similar comments on the notice of proposed rulemaking proposal to revise part 5 (59 FR 61304, Nov. 29, 1994). Because many of the issues that the community group's comments raise relate to part 5, the OCC is considering them in the context of the part 5 rulemaking. The remaining four comment letters focused exclusively on proposed subparts A, B, and C of 12 CFR part 4, which, respectively, describe the agency's organization and functions, govern the disclosure of information under the Freedom of Information Act (FOIA), and govern the release of non-public OCC information.

The following sections summarize the amendments to part 4 and briefly describe the changes made to parts 10, 11, and 18, and 31 CFR part 1.

Part 4, Subpart A—Organization and Functions

Purpose (§ 4.1).

Proposed § 4.1 explained the purpose of subpart A—namely, to describe the OCC's organization and functions and provide the OCC's principal addresses. The OCC received no comments on this section, which is adopted as proposed with minor stylistic edits.