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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. * * *

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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,