

**DEPARTMENT OF JUSTICE****Executive Office for Immigration Review****8 CFR Parts 1003 and 1292**

[EOIR Docket No. 174; A.G. Order No. 3384–2013]

RIN 1125–AA66

**Reorganization of Regulations on the Adjudication of Department of Homeland Security Practitioner Disciplinary Cases****AGENCY:** Executive Office for Immigration Review, Department of Justice.**ACTION:** Final rule.

**SUMMARY:** This final rule adopts without change an interim rule with request for comments published in the **Federal Register** on January 13, 2012. The interim rule amended regulations of the Executive Office for Immigration Review (EOIR) at the Department of Justice (Department) by removing unnecessary provisions in its regulations that are the responsibility of the Department of Homeland Security (DHS). This rule also transferred certain provisions to another CFR part. Finally, the interim rule made revisions to reference applicable DHS regulations and to make technical and clarifying amendments to regulations in that part. **DATES:** This rule is effective June 25, 2013.

**FOR FURTHER INFORMATION CONTACT:** Jeff Rosenblum, General Counsel, Office of the General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia, 22041 telephone (703) 305–0470 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:** On January 13, 2012, the Department published an interim rule with request for comments amending 8 CFR parts 1003 and 1292. Reorganization of Regulations on the Adjudication of Department of Homeland Security Practitioner Disciplinary Cases, 77 FR 2011 (Jan. 13, 2012). The Homeland Security Act of 2002, as amended, transferred the functions of the former Immigration and Naturalization Service (INS) to DHS; however, it retained the functions of EOIR within the Department, under the direction of the Attorney General. 6 U.S.C. 521; 8 U.S.C. 1103(g); see generally *Matter of D–J–*, 23 I&N Dec. 572 (A.G. 2003). As the existing regulations often intermingled the responsibilities of the former INS and EOIR, this transfer required a reorganization of title 8 of the CFR,

including the establishment of a new chapter V in 8 CFR pertaining to EOIR. See 67 FR 9824 (Feb. 28, 2003). As part of this reorganization, a number of regulations pertaining to the responsibilities of DHS intentionally were duplicated in the new chapter V because those regulations also included provisions relating to the responsibilities of EOIR. One such instance involved DHS's practitioner disciplinary regulations at 8 CFR 292.3, which the Department duplicated in 8 CFR 1292.3 because EOIR adjudicates DHS practitioner disciplinary cases. As explained in the interim rule, the Department has determined that most of the duplicate provisions in § 1292.3 pertain to functions that are DHS's responsibility and do not need to be reproduced in EOIR's regulations in chapter V. The interim rule deleted the unnecessary regulations in § 1292.3, and revised § 1292.3 and 8 CFR part 1003 to reference applicable DHS regulations. The interim rule also transferred to 8 CFR part 1003 the provisions in § 1292.3 related to the adjudication of DHS's practitioner disciplinary cases. The interim rule also made technical changes to EOIR's practitioner disciplinary regulations and clarified a previous amendment to those regulations. See 73 FR 76914 (Dec. 18, 2008).

The Department provided an opportunity for post-promulgation comment even though this is a rule of internal organization for which a period of public comment is not required by statute. See 5 U.S.C. 553(b), (c). The comment period ended February 13, 2012. The Department did not receive any comments. Accordingly, the interim rule amending 8 CFR parts 1003 and 1292 that was published on January 13, 2012, is being adopted as a final rule without change.

**Regulatory Requirements***Administrative Procedure Act*

The Department provided an opportunity for post-promulgation public comment under 5 U.S.C. 553, even though the nature of this rule makes it unnecessary to comply with the requirements in 5 U.S.C. 553 with regard to notice of proposed rulemaking and delayed effective date. See 5 U.S.C. 553(b), (d). The rule only makes technical amendments to the organization, procedures, and practices of the Department to improve the organization of the Department's regulations, reflects the transfer of functions pursuant to the Homeland Security Act of 2002, and recodifies existing regulations.

*Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. See 5 U.S.C. 601(2).

*Paperwork Reduction Act*

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3501–3521, and its implementing regulations, 5 CFR part 1320, do not apply to this interim rule because there are no new or revised recordkeeping or reporting requirements.

*Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)*

This rule is not a major rule as defined by section 251 of SBREFA, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based enterprises in domestic and export markets.

*Congressional Review Act*

This action pertains to agency organization, procedures, and practices and does not substantially affect the rights or obligations of non-agency parties; accordingly, it is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of SBREFA). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

*Executive Orders 12866 and 13563*

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation, and Executive Order 13563. The Department has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget (OMB).

*Executive Order 13132*

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant a federalism summary impact statement.

*Executive Order 12988*

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

**List of Subjects***8 CFR Part 1003*

Administrative practice and procedures, Immigration, Legal Services, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

*8 CFR Part 1292*

Administrative practice and procedures, Immigration, Lawyers, Reporting and recordkeeping requirements.

**PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW****PART 1292—REPRESENTATION AND APPEARANCES**

■ Accordingly, the interim rule amending 8 CFR parts 1003 and 1292 that was published at 77 FR 2011 on January 13, 2012, is adopted as a final rule without change.

Dated: April 19, 2013.

**Eric H. Holder, Jr.,**  
*Attorney General.*

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**BILLING CODE 4410-30-P**

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 94**

[Docket No. APHIS-2012-0094]

**Notice of a Determination Regarding the Swine Vesicular Disease Status of Certain Regions in Italy**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Determination.

**SUMMARY:** We are advising the public that we have determined that the Italian Regions of Lombardia, Emilia-Romagna, Veneto, and Piemonte and the autonomous provinces of Trento and Bolzano are free of swine vesicular disease. Based on an assessment of the animal health status of these areas, which we made available to the public for review and comment through a previous notice of availability, the Administrator has determined that the importation of pork or pork products from these areas presents a low risk of introducing swine vesicular disease into the United States. This determination is based on our review of the documentation submitted by the Government of Italy in support of its request and the findings of our own animal health risk evaluation.

**DATES:** *Effective Date:* May 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 851-3089.

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

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various communicable diseases, including swine vesicular disease (SVD). SVD is a dangerous and destructive communicable disease of swine.

Sections 94.12 and 94.14 of the regulations contain requirements governing the importation of pork and pork products and swine, respectively, from regions where SVD exists in order to prevent the introduction of the disease into the United States. We consider SVD to exist in all regions except those listed in accordance with § 94.12(a)(2) as being free of SVD.

Section 94.13 of the regulations contains requirements governing the importation of pork or pork products from regions that have been determined to be free of SVD, but that are subject to certain restrictions because of their proximity to or trading relationships with SVD-affected regions. Such regions are listed in accordance with paragraph (a)(2) of that section.

The regulations in 9 CFR 92.2, contain requirements for requesting the recognition of the animal health status of a region or for the approval of the export of a particular type of animal or

animal product to the United States from a foreign region. If, after review and evaluation of the information submitted in support of the request, the Animal and Plant Health Inspection Service (APHIS) believes the request can be safely granted, APHIS will make its evaluation available for public comment through a notice published in the **Federal Register**.

Following the close of the comment period, APHIS will review all comments received and will make a final determination regarding the request that will be detailed in another notice published in the **Federal Register**.

In accordance with that process, on December 18, 2012, we published in the **Federal Register** (77 FR 74787-74788, Docket No. APHIS-2012-0094) a notice of availability<sup>1</sup> in which we announced the availability for review and comment of our evaluation of the SVD status of the Italian Regions of Lombardia, Emilia-Romagna, Veneto, and Piemonte and the autonomous provinces of Trento and Bolzano. Based on this evaluation, we determined that that the surveillance, prevention, and control measures implemented by Italy in the four Regions and two autonomous provinces under consideration as being free of SVD are sufficient to minimize the likelihood of introducing SVD into the United States via imports of SVD-susceptible species or products. However, because of the Regions' and autonomous provinces' proximity to or trading relationships with SVD-affected regions, we found that it is necessary to impose additional restrictions in accordance with § 94.13 on the importation of pork or pork products from the areas of Italy under consideration for being declared free of SVD.

We solicited comments on the notice of availability for 60 days ending on February 19, 2013. We received one comment on our evaluation, from the European Commission's Directorate-General for Health and Consumers. The commenter was supportive of our proposed action, but raised several additional points relating to the timeline for the final determination, the disease status of Italy, and our characterization of the regulations. The comments are discussed below.

The commenter stated that the last outbreak of SVD anywhere in Italy had occurred over 9 months ago and, consequently, all of Italy has now been declared officially free of SVD according

<sup>1</sup> To view the notice of availability, the assessments, and the comment we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0094>.