

Rules and Regulations

Federal Register

Vol. 69, No. 155

Thursday, August 12, 2004

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 03–081–2]

Tuberculosis in Cattle; Import Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; withdrawal.

SUMMARY: This document withdraws the interim rule amending the animal importation regulations to require that steers and spayed heifers with any evidence of horn growth that are entering the United States meet the same tuberculosis testing requirements as sexually intact animals entering the United States. That interim rule was published in the **Federal Register** on July 20, 2004, and was scheduled to become effective on August 19, 2004. We have decided to publish a proposed rule in place of the interim rule. The proposed rule will be published in the **Federal Register** in the near future.

DATES: This withdrawal is effective August 12, 2004.

FOR FURTHER INFORMATION CONTACT: Dr. Terry Beals, National Tuberculosis Program Coordinator, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4020 N. Lincoln Blvd., Suite 101, Oklahoma City, OK 73105; (405) 427–2998.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals, birds, and poultry into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D of

part 93 (§§ 93.400 through 93.435, referred to below as the regulations) governs the importation of ruminants. Section 93.406 of the regulations contains requirements for diagnostic tests for brucellosis and tuberculosis. Section 93.427 contains some additional safeguards against tick-borne diseases, brucellosis, and tuberculosis for cattle imported into the United States from Mexico.

On July 20, 2004 (69 FR 43283–43285, Docket No. 03–081–1), APHIS published in the **Federal Register** an interim rule amending §§ 93.406 and 93.427 to require that steers and spayed heifers with any evidence of horn growth that are entering the United States meet the same tuberculosis testing requirements as sexually intact animals entering the United States. The interim rule was scheduled to become effective on August 19, 2004.

We have decided to publish a proposed rule in place of the interim rule. Therefore, we are withdrawing the interim rule and will publish the proposed rule in the **Federal Register** in the near future.

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 4th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18446 Filed 8–11–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 040730221–4221–01]

RIN 0605–AA18

Disclosure of Government Information

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: This document amends the Department of Commerce's (Department) Freedom of Information Act (FOIA) regulations by adding a facsimile (fax) number and an e-mail address as methods of transmitting appeals of initial responses to FOIA

requests to the Office of General Counsel. The e-mail address is designed specifically to receive FOIA appeals. This amendment will ensure a more uniform and controlled method for the receipt and tracking of FOIA appeals, as well as assist the Office of General Counsel in providing accurate and timely responses.

DATES: Effective August 12, 2004.

ADDRESSES: The public may submit written FOIA appeals to the Department to the following address: U.S. Department of Commerce, Office of General Counsel, Room 5875, 14th and Constitution Avenue, NW., Washington, DC 20230, or to the following e-mail address, FOIAAppeals@doc.gov, or fax number, 202–482–2552.

FOR FURTHER INFORMATION CONTACT: Brian D. DiGiacomo, 202–482–5391.

SUPPLEMENTARY INFORMATION: Section 4.10(a) of the Department of Commerce's regulations implementing the Freedom of Information Act (5 U.S.C. 552) states that if a request for records is initially denied in whole or in part, or has not been timely determined, or if the requester receives an adverse initial determination regarding any other matter under this subpart, the requester may file a written appeal, which must be received by the Office of General Counsel within 30 calendar days of the date of the written denial or, if there has been no determination, may be submitted anytime after the due date. 15 CFR 4.10(a). In order to create a more direct way to receive FOIA appeals, the Office of General Counsel has created a new e-mail address and has made available a fax number. The address is FOIAAppeals@doc.gov. The fax number is 202–482–2552. When an appeal is submitted via fax or e-mail, it must include a copy of the initial FOIA request and a copy of the initial denial letter as attachments to the fax or e-mail. The submission will not be considered complete without these attachments. Written appeals submitted by mail will still be accepted. Requesters may begin using the fax number and new e-mail address as of August 12, 2004. Please be aware that the e-mail, fax machine and Office of the General Counsel are monitored only during normal business hours (8:30 a.m. to 5 p.m., eastern time, Monday through Friday). FOIA appeals posted to the e-mail box, fax machine or Office of the General Counsel after

normal business hours will be deemed received on the next normal business day.

Classification

Executive Order 12866: This rule has been determined to be not significant for purposes of EO 12866.

Administrative Procedure Act: The Department finds under 5 U.S.C. 553(b)(B) that good cause exists to waive prior notice and opportunity for public comment. This final rule amends the Department's FOIA regulations to allow the public to file written appeals with the Office of General Counsel via fax or e-mail. By accepting fax and e-mail transmissions, the Department merely establishes additional means for the public to submit FOIA appeals to the Office of General Counsel. The right to and the requirements of filing such an appeal are unchanged by this rule. Because this amendment is not a substantive change to the regulations, it is unnecessary to provide prior notice and opportunity for public comment. Further, pursuant to 5 U.S.C. 553(b)(A), this rule of agency organization, procedure and practice is not subject to the requirement to provide prior notice and opportunity for public comment. The Department also finds that the 30-day delay in effectiveness required under 5 U.S.C. 553(d) is inapplicable because this rule is not a substantive rule. This final rule merely establishes additional means for the public to submit FOIA appeals to the Office of General Counsel. Because this amendment is not a substantive change to the regulations, the 30-day delay in effectiveness does not apply.

Regulatory Flexibility Act: Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

List of Subjects in 15 CFR Part 4

Administrative practice and procedure, Classified information.

■ For the reasons stated in the preamble, the Department of Commerce amends 15 CFR part 4 as set forth below:

PART 4—DISCLOSURE OF GOVERNMENT INFORMATION

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 31 U.S.C. 3717; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

■ 2. Amend § 4.10 by revising paragraphs (a) and (b) to read as follows:

§ 4.10 Appeals from initial determinations or untimely delays.

(a) If a request for records is initially denied in whole or in part, or has not been timely determined, or if a requester receives an adverse initial determination regarding any other matter under this subpart (as described in § 4.7(b)), the requester may file a written appeal or an electronic appeal, which must be received by the Office of General Counsel during normal business hours (8:30 a.m. to 5 p.m., Eastern Time, Monday through Friday) within thirty calendar days of the date of the written denial or, if there has been no determination, may be submitted anytime after the due date, including the last extension under § 4.6(c), of the determination. Written or electronic appeals arriving after normal business hours will be deemed received on the next normal business day.

(b) Appeals shall be decided by the Assistant General Counsel for Administration (AGC-Admin), except that appeals for records which were initially denied by the AGC-Admin shall be decided by the General Counsel. Written appeals should be addressed to the AGC-Admin, or the General Counsel if the records were initially denied by the AGC-Admin. The address of both is: U.S. Department of Commerce, Office of General Counsel, Room 5875, 14th and Constitution Avenue NW., Washington, DC 20230. An appeal may also be sent via facsimile at 202-482-2552. For a written appeal, both the letter and the appeal envelope should be clearly marked "Freedom of Information Appeal". The address for electronic appeals is FOIAAppeals@doc.gov. The appeal (written or electronic) must include a copy of the original request and the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided.

* * * * *

Dated: August 6, 2004.

Brenda Dolan,

Departmental Freedom of Information Officer.

[FR Doc. 04-18412 Filed 8-11-04; 8:45 am]

BILLING CODE 3510-17-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038 — AB64

Minimum Financial and Related Reporting Requirements for Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending several of its regulations relating to the minimum financial and related reporting requirements for futures commission merchants ("FCMs") and introducing brokers ("IBs"). The amended regulations require an FCM, when calculating its minimum adjusted net capital requirement, to include a computation based on the risk maintenance margin levels of positions carried in customer and noncustomer accounts. The required calculation is identical to capital calculations that each FCM currently is required to perform pursuant to the rules of self-regulatory organizations, including one derivatives clearing organization. The Commission also is adopting conforming margin-based computations for purposes of the Commission's equity capital, subordination agreement and "early warning" requirements for FCMs. The margin-based computations required by the final rule replace computations in the Commission's regulations that had been based on the amount of funds held by an FCM to margin, guarantee, or secure futures and option positions carried on behalf of customers. Furthermore, the Commission is amending its regulations to reduce the time periods for FCMs and IBs to report events specified in the Commission's early warning requirements. Finally, the Commission also is adopting amendments to streamline the financial statement reporting requirements for FCMs and IBs.

DATES: *Effective Date:* September 30, 2004.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Smith, Associate Deputy Director and Chief Accountant, at (202) 418-5495, or Thelma Diaz, Special Counsel, at (202) 418-5137, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC