

# Rules and Regulations

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2634

RIN 3209-AA00

#### Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture; Extensions of Filing Dates for Certain Confidential Financial Disclosure Report Filers

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule; amendment.

**SUMMARY:** The Office of Government Ethics is adopting as final a procedural rule amendment relating to extensions of filing dates for certain filers of Confidential Financial Disclosure Reports. The amendment allows agencies to extend the filing date for the submission of confidential reports for active duty members of the Armed Forces, civilian employees and others who are in a combat zone or otherwise supporting the Armed Forces or other governmental entities following a Presidential declaration of national emergency.

**EFFECTIVE DATE:** November 5, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Norman Smith, Senior Associate General Counsel, Office of Government Ethics; telephone: 202-208-8000; TDD: 202-208-8025; FAX: 202-208-8037.

**SUPPLEMENTARY INFORMATION:** On September 14, 2001, President George W. Bush declared that a national emergency has existed since September 11, 2001, by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States. See Presidential Proclamation 7463, as published at 66 FR 48199.

Members of the Armed Forces, reservists, and civilian employees are responding to the Presidential

proclamation of a national emergency. Many of these individuals who are in Federal Government service in the executive branch are required to file Confidential Financial Disclosure Reports under the disclosure system established pursuant to the Ethics in Government Act of 1978 as amended, and Executive Order 12674, as modified. The regulations governing the confidential financial disclosure reporting system are codified at subpart I of 5 CFR part 2634. The next filing date for incumbent confidential reports is October 31, 2001 (unless an extension not to exceed 90 days has been granted under agency authority).

Consequently, in order to ameliorate the filing burden on those confidential filers who are being deployed or sent to a combat zone or required to perform services away from their normal duty station in support of the Armed Forces or other governmental entities, this final rulemaking action revises paragraph (d) of § 2634.903 to provide for a discretionary extension of the filing date to last no longer than 90 days after the period of active duty service, return to the employee's normal duty station, or a resultant hospitalization.

This extension authority is intended to provide relief for persons who are in combat areas or otherwise responding to the national emergency, such as those situations where it is impractical for the confidential filer to obtain access to personal records. Our expectation is that an extension will not be granted unless the confidential filer is required to perform services outside the vicinity of her local commuting area (as defined by the agency). We note that agencies may look to existing agency policies or rules for guidance concerning what is considered to be outside the vicinity of the "local commuting area." Typically, agencies will have defined the limits of a local commuting area for such purposes as, for example, determining entitlement to transportation expenses (such as per diem) or entitlement to overtime pay for travel, or for reduction in force purposes. Finally, we note any such special extension granted is not intended to toll the running of the period of any regular extension granted by an agency under newly redesignated paragraph (d)(1) of § 2634.903.

Agencies may exercise their extension authority on a case-by-case basis or by class designation. Agencies should

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appropriately document in their records the duration and circumstances of any case in which the extension is utilized, including for example the last date of service in a combat zone (if known), date of return to a permanent duty station, or the dates of any resultant hospitalization.

## Matters of Regulatory Procedure

### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the provisions for general notice of proposed rulemaking, opportunity for public comment, and 30-day delay in effectiveness as to this amendment. These provisions are being waived because it is in the public interest that this amendment, which is being issued to assist in a national emergency and both grants authority for an exemption for, and relief of a restriction (filing burden) on, certain confidential report filers, take effect as soon as possible.

### *Executive Order 12866*

In promulgating this final rule amendment, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Review and Planning. The amendment has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive Order.

### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

### *Regulatory Flexibility Act*

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this amendatory rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch employees.

**Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this amendment does not contain information collection requirements that require the approval of the Office of Management and Budget.

**Congressional Review Act**

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has provided a report thereon to the United States Senate, House of Representatives and General Accounting Office in accordance with that law.

**Unfunded Mandates Reform Act**

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation).

**List of Subjects in 5 CFR Part 2634**

Certificates of divestiture, Conflict of interests, Confidential financial disclosure reports, Government employees, Penalties, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: October 26, 2001.

**Amy L. Comstock,**

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2634 as follows:

**PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE**

1. The authority citation for part 2634 continues to read as follows:

**Authority:** 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 Note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104-134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

**Subpart I—Confidential Financial Disclosure Reports**

2. Section 2634.903 is amended by revising paragraph (d) to read as follows:

**§ 2634.903 General requirements, filing dates, and extensions.**

\* \* \* \* \*

(d) **Extensions**—(1) **Agency extensions.** The agency reviewing official may, for good cause shown, grant to any employee or class of employees a filing extension or several extensions totaling not more than 90 days.

(2) **Certain service during period of national emergency.** In the case of an active duty military officer or enlisted member of the Armed Forces, a Reserve or National Guard member on active duty under orders issued pursuant to title 10 or title 32 of the United States Code, a commissioned officer of the Uniformed Services (as defined in 10 U.S.C. 101), or any other employee, who is deployed or sent to a combat zone or required to perform services away from his permanent duty station in support of the Armed Forces or other governmental entities following a declaration by the President of a national emergency, the agency reviewing official may grant such individual a filing extension to last no longer than 90 days after the last day of:

- (i) The individual's service in the combat zone or away from his permanent duty station; or
- (ii) The individual's hospitalization as a result of injury received or disease contracted while serving during the national emergency.

(3) **Agency procedures.** Each agency may prescribe procedures to provide for the implementation of the extensions provided for by this paragraph.

[FR Doc. 01-27637 Filed 11-2-01; 8:45 am]

**BILLING CODE 6345-01-P**

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 94**

**[Docket No. 01-031-2]**

**Change in Disease Status of France and Ireland With Regard to Foot-and-Mouth Disease**

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding France and Ireland to the list of regions considered to be free of rinderpest and foot-and-mouth disease (FMD) and to the list of regions

that are subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule follows an interim rule that removed France, Ireland, and The Netherlands from those lists due to detection of FMD in those three regions. Based on the results of an evaluation of the current FMD situation in France and Ireland, we have determined that France and Ireland meet the standards of the Office International des Epizooties for being considered free of FMD. This rule relieves certain prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from France and Ireland. We are still evaluating the FMD situation in The Netherlands.

**EFFECTIVE DATE:** November 5, 2001.

**FOR FURTHER INFORMATION CONTACT:** Dr. Anne Goodman, Senior Staff Microbiologist, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-8083.

**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 animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera (also known as classical swine fever), and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD is considered to exist in all parts of the world not listed. Section 94.11 of the regulations lists regions of the world that APHIS has determined to be free of rinderpest and FMD, but from which importation of meat and animal products into the United States is restricted because of the regions' proximity to or trading relationships with rinderpest- or FMD-affected regions.

In an interim rule effective February 19, 2001, and published in the **Federal Register** on June 1, 2001 (66 FR 29686-29689, Docket No. 01-031-1), we amended the regulations by removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD. This action