

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) A.Q. Docket No. 05-0004  
)  
Marla Garcia Gonzalez )  
)  
Respondent ) DECISION and ORDER  
)  
)

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the importation of certain restricted pork products from Spain into the United States (9 C.F.R. ' 94.1 et seq.) hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. " 1.130 et seq. and 9 C.F.R. " 99.1 et seq..

This proceeding was instituted under the Animal Health Protection Act (7 U.S.C. " 8301 et seq.)(Act), by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service (APHIS) on November 17, 2004, alleging that respondent Marla Garcia Gonzalez violated the Act and regulations promulgated under the Acts (9 C.F.R. ' 94.1 et seq.).

The complaint sought civil penalties as authorized by 7 U.S.C. ' 8313. This complaint specifically alleged that on or about August 13, 2002 respondent imported into the United States from Spain, where classical swine fever is known to exist, approximately 1.5 kilograms of pork products, without the specified treatment, certificates, processing or inspection by a representative of the USDA.

The respondent failed to file an answer within the time prescribed in 7 C.F.R. ' 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. ' 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. ' 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the failure to file an answer constitutes a waiver of hearing. (7 C.F.R. ' 1.139). Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. (7 C.F.R. ' 1.139).

#### Findings of Fact

1. Marla Garcia Gonzalez, hereinafter referred to as respondent, is an individual with a mailing address of 8600 SW 101<sup>st</sup> Avenue, Miami, FL 33173.

2 On August 13, 2002, the respondent violated 9 C.F.R. ' 94.9(b) by importing into the United States approximately 1.5 kilograms of pork from Spain, where classical swine fever is

known to exist, without the specified treatment, certificates, processing or inspection by a representative of the USDA.

### Conclusion

By reason of the Findings of Fact set forth above, the respondent(s) has violated the Act and the regulations issued under the Act (9 C.F.R. ' 94.1 et seq). Therefore, the following Order is issued.

### Order

Respondent Marla Garcia Gonzalez is assessed a civil penalty of five hundred dollars (\$500). This civil penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture  
APHIS Field Servicing Office  
Accounting Section  
P.O. Box 3334  
Minneapolis, Minnesota 55403

Respondents shall indicate on the certified check or money order that payment is in reference to A.Q. Docket No. 05-0004.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to 7 C.F.R. ' 1.145 of the Rules of Practice.

Done at Washington, D.C.

this 11<sup>th</sup> day of February, 2005

Peter M. Davenport  
Administrative Law Judge