

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

A.Q. Docket No. 08-0004

In re: IRENE HANG,

Respondent

DEFAULT DECISION AND ORDER

This is an administrative proceeding for the assessment of a civil penalty for a violation of the Animal Health Protection Act (7 U.S.C. §§ 8303)(the Act), in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 et seq. and 9 C.F.R. §§ 70.1 et seq.

The proceeding was instituted under the Act by a complaint filed on October 4, 2007, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture and served by ordinary mail on Respondent Irene Hang on March 3, 2008.¹ Pursuant to section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), Respondent Irene Hang was informed in the complaint and the letter accompanying the complaint that an answer should be filed with the Hearing Clerk within twenty (20) days after service of the complaint, and that failure to file an answer within twenty (20) days after service of the complaint constitutes an admission of the allegations in the complaint

¹An initial attempt to serve respondent by certified mail was returned as undeliverable. A corrected address was provided and a second attempt at certified mail was attempted. This second certified mailing was returned by the postal service as unclaimed. Pursuant to 7 C.F.R. §1.147, the document was remailed by ordinary mail, and is deemed to be received by the respondent on the date of remailing.

and waiver of a hearing. Respondent's answer thus was due no later than March 24, 2008, twenty days after service of the complaint (7 C.F.R. § 1.136(a)). Respondent Irene Hang never filed an answer to the complaint and the Hearing Clerk's Office mailed her a No Answer Letter on March 25, 2008.

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) or to deny or otherwise respond to the allegations of the complaint shall be deemed an admission of the allegations in the complaint. As the admission of the allegations in a complaint constitutes a waiver of hearing (7 C.F.R. § 1.139) and Respondent's failure to file an answer is deemed such an admission pursuant to the Rules of Practice, Respondent's failure to answer is likewise deemed a waiver of hearing. 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. Irene Hang, herein referred to as Respondent, is an individual with an address of 5306 Tabor Avenue, Philadelphia, Pennsylvania 19120.

2. On or about January 30, 2003, the Respondent, in violation of Section 10404 of the Act (7 U.S.C. § 8303) and Section 94.4 of the Code of Federal Regulations (9 C.F.R. § 94.4), imported two (2) kilograms of beef and two (2) kilograms pork from Vietnam.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. By reason of the foregoing Findings of Fact, Irene Hang has violated the Act and the Regulations.

ORDER

Respondent Irene Hang is hereby assessed a civil penalty of five hundred dollars (\$500.00). This 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

Respondent Irene Hang shall indicate that payment is in reference to P.Q. Docket No. 08-0004.

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 Irene Hang unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.145).

Copies of this Order will be served upon the parties by the Hearing Clerk.

Done at Washington, D.C.
June 9, 2008

Peter M. Davenport
PETER M. DAVENPORT
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776

