

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 98-034-1]

RIN 0579-AA96

### Importation of Poultry Meat and Other Poultry Products From Sinaloa and Sonora, Mexico

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations concerning the importation of animal products to relieve certain restrictions on the importation of poultry meat and other poultry products from the Mexican States of Sinaloa and Sonora. Currently, because of the existence of exotic Newcastle disease in Mexico, poultry meat and other poultry products from Sinaloa and Sonora must be cooked, sealed, and packaged, to certain specifications, to be eligible for importation into the United States. This proposal would establish new, less restrictive conditions for the importation of poultry meat and other poultry products from Sinaloa and Sonora into the United States. This action is based on a risk assessment indicating that such importations would present a negligible risk of introducing exotic Newcastle disease into the United States.

**DATES:** Consideration will be given only to comments received on or before July 20, 1999.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 98-034-1, Regulatory Analysis and Development, PPD, APHIS, suite 3CO3, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 98-034-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street

and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael David, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737, (301) 734-5034.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations pertaining to the importation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

Until recently, the regulations in parts 91 through 99 governed the importation of animals and animal products according to the recognized animal disease status of the exporting country. In general, if a disease occurred anywhere within a country's borders, the entire country was considered to be affected with the disease, and importations of animals or animal products from anywhere in the country were regulated accordingly. However, international trade agreements entered into by the United States—specifically, the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—require APHIS to recognize regions, rather than only countries, as well as levels of risk, for the purpose of regulating the importation of animals and animal products into the United States. Consequently, on October 28, 1997, we published in the **Federal Register** a final rule (62 FR 56000-56026, Docket No. 94-106-9, effective November 28, 1997) that established procedures for recognizing regions and levels of risk for the purpose of regulating the importation of animals and animal products. In that rule, we also established procedures by which a

region may request permission to export animals and animal products to the United States under specified conditions, based on the region's disease status.

On the same date, we also published a policy statement (62 FR 56027-56033, Docket No. 94-106-8) that explained that we will evaluate such requests on a case-by-case basis by analyzing the level of disease risk involved. Levels of risk exist upon a continuum. However, we established five benchmark categories—negligible, slight, low, moderate, and high—to give foreign regions a general idea of where they fit upon the risk continuum. According to our policy, once we have established the level of disease risk associated with the unrestricted importation of a particular type of animal or animal product, we will determine the import conditions needed to reduce that risk to a negligible level. Because of the number of potential variables and the vast number of possible combinations of those variables in assessing the risk of the unrestricted importation of animals and animal products from a region, the precise combination of measures necessary to reduce the risk of disease introduction to a negligible level will likely vary from region to region depending on the commodities to be imported and the diseases of concern.

The factors that we will consider in determining the level of risk associated with unrestricted importation of a particular type of animal or animal product from a region are:

1. The authority, organization, and infrastructure of the veterinary services organization in the region.

2. The type and extent of disease surveillance in the region—e.g., is it passive and/or active; what is the quantity and quality of sampling and testing?

3. Diagnostic laboratory capabilities.

4. Disease status—is the disease agent known to exist in the region? If “yes,” at what prevalence? If “no,” when was the most recent diagnosis?

5. The extent of an active disease control program, if any, if the agent is known to exist in the region.

6. The vaccination status of the region. When was the last vaccination? What is the extent of vaccination if it is currently used, and what vaccine is being used?

7. Disease status of adjacent regions.

8. The degree to which the region is separated from regions of higher risk through physical or other barriers.

9. The extent to which movement of animals and animal products is controlled from regions of higher risk, and the level of biosecurity regarding such movements.

10. Livestock demographics and marketing practices in the region.

11. Policies and infrastructure for animal disease control in the region—i.e., emergency response capacity.

The regulations in part 94 pertain to, among other things, the importation of meat and other animal products into the United States. Currently, § 94.6 governs the importation of carcasses, or parts or products of carcasses, of poultry, game birds, or other birds, from regions where exotic Newcastle disease (END) is considered to exist. Specifically, the regulations allow carcasses, or parts or products of carcasses of poultry, to be imported from regions where END is considered to exist for consumption if: (1) The poultry is packed in hermetically sealed containers and cooked by a commercial method after such packing to produce articles that are shelf stable without refrigeration, (2) the poultry is thoroughly cooked and appears to have a thoroughly cooked appearance throughout upon APHIS inspection at the port of arrival, or, (3) the poultry is imported under permit after APHIS determines the importation as such will not constitute a risk of introducing or disseminating END into the United States.

We are proposing to establish a new § 94.22, as discussed later in this document, to allow the importation of poultry meat and other poultry products from the States of Sinaloa and Sonora, Mexico, under conditions less restrictive than provided in § 94.6.

### Our Proposal

In June 1994, the Government of Mexico officially requested that the United States recognize the Mexican States of Sinaloa and Sonora as free of END. In February 1997, a team of APHIS veterinarians conducted a site visit to verify that Sinaloa and Sonora were free of END and had the veterinary infrastructure, disease control programs, diagnostic capabilities, and surveillance programs necessary to prevent a recurrence of the disease. The site visit confirmed the information presented in the request by the Mexican Government. Copies of the APHIS site visit report may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. The APHIS team also determined that the poultry industries of Sinaloa and Sonora and

Mexican agricultural officials were exclusively interested in the exportation of poultry meat and other poultry products and not live poultry to the United States.

Based on the information presented to APHIS by the Government of Mexico and our site visit to Sinaloa and Sonora, we have established the following facts, which correspond with the factors listed previously for determining the risk associated with unrestricted importation of a particular commodity from a region:

1. In Mexico, animal health functions are carried out by officials at the Federal level, who set policy, and by officials at the State level, who carry out program operations. The success of all disease eradication or control programs in Mexico largely depends on the relationship between these two levels of government and between governmental officials and the livestock industry. In Sinaloa and Sonora, a collaborative relationship exists between the poultry producer associations and State and Federal animal health officials. The success of the END eradication program in Sinaloa and Sonora has been largely due to the dedication and commitment of the industry and its willingness to work with animal health officials. In addition, State and Federal laws, regulations, policies, and infrastructure in Sinaloa, Sonora, and Mexico appear to be adequate to restrict movements of poultry and poultry products into Sinaloa and Sonora from any regions of Mexico where END may exist.

2. Prior to Mexico's declaration of Sinaloa and Sonora as free of END in May 1993, Sinaloa and Sonora State officials conducted serological surveys of all their commercial and backyard poultry flocks to verify the State's END-free status. These surveys were repeated again in 1997 and 1998. Sinaloa and Sonora have maintained active surveillance on commercial poultry populations since 1993, with 100 percent of commercial populations under active surveillance in 1997. All samples taken from commercial poultry populations since 1993 have tested negative for END. Small, private "backyard" poultry populations have been systematically sampled for END since 1997. All "backyard" flock samples taken since that time have also tested negative for END.

3. Samples from commercial farms in Sinaloa and Sonora and backyard flocks in Sinaloa are monitored for diseases at a Federally approved laboratory in Ciudad Obregon, Sonora. Samples from backyard flocks in Sinaloa are monitored at the central diagnostic laboratory outside Mexico City. Both laboratories have the capability to detect

Newcastle disease either serologically or by virus isolation.

4. The last case of END in Sinaloa or Sonora was reported in 1989, and Mexico declared both States free of the disease in 1993. The States of Chihuahua, Durango, and Baja California, which border Sinaloa and Sonora, have been recognized by Mexico as free of END. The State of Nayarit, which borders Sinaloa to the south, is the only State that borders Sinaloa that has not been recognized by Mexico as free of END. However, the last outbreak of END in Nayarit was reported in 1989.

5. Before 1992, Mexico's END eradication program was primarily focused on movement control. Surveillance and testing were passive, with samples submitted from reported suspect cases. The program was strengthened in 1992, when poultry producers enrolled their flocks in a national END certification program. During the last 3 years, the eradication program has been further strengthened by the participation of additional States, and by the initiation of active surveillance in the declared free States. States that move into the "eradication" phase of the campaign (no cases of END for at least 12 months) must establish an emergency response team.

6. Sinaloa and Sonora use the same vaccination method practiced in the United States: only lentogenic (low path) strains of Newcastle disease are used.

7. Sonora is bounded on the west by the Gulf of California, on the east by the Sierra Madre mountain ranges and the State of Chihuahua, on the north by the United States and the Mexican State of Baja California, and on the south by the State of Sinaloa. Baja California, Chihuahua, and Sinaloa have each been declared free of END by the Government of Mexico and have active disease surveillance and animal control programs as described above.

Sinaloa is bounded on the west by the Gulf of California, on the east by the States of Chihuahua and Durango and the Sierra Madre mountain ranges, on the north by the State of Sonora, and on the south by the State of Nayarit. Both Durango and Chihuahua have been recognized by the Government of Mexico as free of END. Nayarit has not been officially recognized as free from END, but has not had an outbreak of END since 1989.

8. The only adjacent area of higher risk for Sinaloa is the State of Nayarit. Man-made controls are in place along the Sinaloa-Nayarit border, and were judged to be adequate by the site-visit

team to prevent the reintroduction of END into Sinaloa or Sonora.

9. Sinaloa and Sonora strictly control the inter- and intrastate movement of livestock, poultry, and livestock and poultry products into and through each State. Trade and travel through the maritime ports and international airports are strictly monitored, as is vehicular movement within each State. Commercial vehicles with agricultural cargo must present proper sanitary documentation for the cargo or entry is denied. In addition, all vehicles entering Sinaloa and Sonora from Nayarit are inspected. Poultry products produced in States of lower health status than that of Sinaloa and Sonora may be imported only if the products meet time and temperature processing requirements and originate from a slaughter plant approved and inspected by a full-time salaried veterinarian of the Government of Mexico.

10. Commercial poultry production in Sinaloa is concentrated among a handful of producers on about 65 premises, who collectively own about 3 million laying hens and 28 million broiler chickens. One company alone owns 90 percent of the State's broiler chickens, and this company, along with two others, owns 50 percent of Sinaloa's laying hens. Broiler chickens in Sinaloa are vaccinated against Newcastle disease when they are 12 days old and are housed in highly integrated operations similar to those found in the United States. Such fully integrated operations in Sinaloa implement excellent biosecurity measures at all levels of production.

Commercially produced broilers in Sinaloa are processed in the only Federally approved inspection plant in the State, which processes an average of 120,000 birds per day. The integrated company that owns and operates the plant does not process birds from any other source.

Sinaloa produces sufficient broilers and table eggs to meet its consumption demands. Surplus meat and eggs (about 70 percent of egg production and 30 percent of meat production) are exported to other Mexican States.

Commercial poultry production in Sonora consists of one company, which maintains only six production farms. Broiler chickens are processed at an integrated company-owned plant, which processes 10,000 birds per day, and the meat is sold locally or is shipped to cities in northern Baja California.

Sonora also produces about 15 percent of the national production of table eggs.

The number of backyard flocks in Sinaloa and Sonora constitutes a small

population, and biosecurity measures at these operations are virtually nonexistent. However, no auctions for trading backyard poultry exist in Sinaloa or Sonora, as backyard poultry is maintained for personal consumption. (Therefore, as described later in this document, we are proposing to allow the importation of poultry meat and other poultry products that are derived only from poultry that were raised in Sinaloa or Sonora and slaughtered in Sinaloa or Sonora at a federally inspected slaughter plant. The slaughter plant would have to be operated under the direct supervision of a full-time salaried veterinarian of the Government of Mexico and approved by USDA's Food Safety and Inspection Service (FSIS).)

11. State and Federal laws, regulations, policies, and infrastructure in Sinaloa and Sonora and the rest of Mexico appear to be adequate to maintain surveillance and control of END and to eradicate END rapidly in the event of an outbreak in the States of Sinaloa or Sonora.

These findings are described in further detail in a qualitative risk assessment that we prepared in accordance with the regionalization final rule and policy statement discussed previously. Our qualitative risk assessment concerning the importation of poultry meat and other poultry products from Federally inspected slaughtering establishments in Sinaloa and Sonora may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. The risk assessment indicated that the importation of poultry meat and other poultry products from federally inspected slaughtering establishments in Sinaloa and Sonora, Mexico, would present a negligible risk of introducing END into the United States.

Based on the finding of negligible risk, we are proposing to relieve restrictions on the importation of poultry meat and other poultry products from Sinaloa and Sonora, Mexico. However, we are proposing to allow the poultry meat and other poultry products to be imported only under certain conditions, to help prevent the possibility that poultry meat and other poultry products from poultry raised in regions of Mexico other than Sinaloa or Sonora could be exported to the United States via Sinaloa or Sonora. We want to prevent the following possibilities: That poultry from regions of Mexico other than Sinaloa or Sonora could be moved to Sinaloa or Sonora for slaughter, processing, and export to the United States; that poultry meat or other poultry products from other regions

could be moved to Sinaloa or Sonora for export to the United States; or that, once leaving Sinaloa or Sonora, poultry meat or other poultry products from Sinaloa or Sonora could be commingled with poultry meat or other poultry products from other regions of Mexico in transit to the United States. We believe that the proposed import conditions would provide protection against the occurrence of any of these scenarios. Following the list of import conditions is our basis for them.

#### **Proposed Conditions**

1. The poultry meat or other poultry products must be derived from poultry that were born and raised in Sinaloa or Sonora and slaughtered in Sinaloa or Sonora at a federally inspected slaughter plant under the direct supervision of a full-time salaried veterinarian of the Government of Mexico, and the slaughter plant must be approved to export poultry meat and other poultry products to the United States in accordance with 9 CFR 381.196.

2. If processed in any manner, the poultry meat or other poultry products must be processed at a Federally inspected processing plant in Sinaloa or Sonora under the direct supervision of a full-time salaried veterinarian of the Government of Mexico.

3. The poultry meat or other poultry products may not have been in contact with poultry from any State in Mexico other than Sinaloa and Sonora or from any other region not listed in § 94.6 as a region where END is not known to exist.

4. The foreign meat inspection certificate for the poultry meat or other poultry products (required by FSIS under 9 CFR 381.197) must be signed by a full-time salaried veterinarian of the Government of Mexico. The certificate must include statements that certify the above conditions have been met. The certificate must also show the seal number on the shipping container if a seal is required (see below).

5. In addition, if the poultry meat or other poultry products are going to transit any State in Mexico other than Sinaloa or Sonora or any other region not listed in § 94.6 as a region where END is not known to exist en route to the United States, a full-time salaried veterinarian of the Government of Mexico must apply serially numbered seals to the containers carrying the poultry meat or other poultry products at the Federally inspected slaughter or processing plant in Sinaloa or Sonora, and the seal numbers must be recorded on the foreign meat inspection certificate.

6. Prior to its arrival in the United States, the shipment of poultry meat or other poultry products may not have been in any State in Mexico other than Sinaloa or Sonora or in any other region not listed in § 94.6 unless the poultry meat or poultry products have remained under seal until arrival at the U.S. port and either (1) the numbers on the seals match the numbers on the foreign meat inspection certificate or (2) if the numbers on the seals do not match the numbers on the foreign meat inspection certificate, an APHIS representative at the port of arrival is satisfied that the poultry meat or poultry products were not contaminated during movement to the United States.

#### **Basis for Proposed Conditions**

We are proposing to require that the poultry meat and other poultry products come only from poultry slaughtered at Federally inspected slaughter plants in Sinaloa and Sonora that are approved to export poultry meat and other poultry products to the United States in accordance with 9 CFR 381.196. Such plants only accept poultry for slaughter if it is raised under adequate biosecurity for commercial sale. This proposed requirement would serve as an additional safeguard against the possibility that poultry meat or other poultry products from poultry raised in backyard farms could be exported to the United States.

We are proposing that processed poultry meat or other poultry products from Sinaloa and Sonora come only from Federally inspected processing plants in Sinaloa and Sonora because those plants must meet FSIS requirements in order to be approved to export poultry meat or other poultry products to the United States in accordance with 9 CFR 381.195 through 381.209. Further, those plants are under the direct supervision of full-time salaried veterinarians of the Government of Mexico.

The proposed requirement that the poultry meat and other poultry products may not have been in contact with poultry from any State in Mexico other than Sinaloa or Sonora, or from regions other than those listed in § 94.6, is intended to ensure that the poultry meat and other poultry products were not exposed to END.

We are proposing to allow the poultry meat and other poultry products to transit other regions not listed in § 94.6 en route to the United States if the poultry meat and other poultry products are shipped in containers sealed with serially numbered seals at the Federally inspected slaughtering plant or processing plant in Sinaloa or Sonora

and the containers arrive in the United States with the seals intact. The seal numbers would have to be listed on the foreign meat inspection certificate that accompanies the shipment. This precaution would ensure that the poultry meat and other poultry products have remained in closed containers during transit to the United States and have not become contaminated.

This proposed rule would also allow the importation of the poultry meat and other poultry products in containers bearing seals with different numbers than those listed on the foreign meat inspection certificate if our port inspectors can determine that an official of the Government of Mexico opened the original seals and then applied new seals. We realize the need to allow some flexibility in shipping and recognize that valid reasons may exist for the opening of containers and for the changing of numbers in transit. For example, many flights from Sinaloa and Sonora to the United States stop in Mexico City, and the containers may have to be opened for inspection by Mexican customs officials.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is summarized below, regarding the impact of this proposed rule on small entities. This analysis also serves as our cost-benefit analysis under Executive Order 12866. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic impact on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities, especially in the southwestern border states, that may incur benefits or costs from the implementation of this proposed rule.

In accordance with 21 U.S.C. 111, the Secretary of Agriculture is authorized to promulgate regulations to prevent the introduction or dissemination of the contagion of any contagious, infectious, or communicable disease of animals

from a foreign country into the United States.

This proposed rule would amend the regulations to relieve certain restrictions on the importation of poultry meat and other poultry products from the States of Sinaloa and Sonora, Mexico, by establishing new conditions for the importation of poultry meat and other poultry products from Sinaloa and Sonora into the United States.

Currently, no poultry slaughter facilities in the States of Sinaloa or Sonora are approved to export poultry meat or other poultry products to the United States by the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture. Poultry processing facilities in Sinaloa and Sonora will need FSIS approval prior to exporting poultry to the United States. Further, based on the following analysis, we anticipate that if and when Mexican facilities receive FSIS approval to export poultry meat or other poultry products to the United States, the economic effect of those imports on U.S. producers and processors will be minimal.

As part of our analysis, we compared the expected benefits of poultry imports from Sinaloa and Sonora to the expected costs resulting from a possible disease outbreak. A qualitative risk assessment prepared by APHIS indicates that the expected costs of disease introduction are likely to be zero, as the proposed imports pose a low probability of causing an outbreak of END in the United States. The hazard of concern regarding these potential imports is exotic Newcastle disease (END).

The benefits of allowing poultry imports from Sinaloa and Sonora under less restrictive conditions are calculated as the net change in consumer and producer surplus that results from the estimated volume of trade. Assuming that, among other things, poultry meat and other poultry products from Sinaloa and Sonora would be a perfect substitute for domestic poultry meat and other poultry products, it is estimated that the net benefits of the proposed imports would be positive. Allowing importations of poultry meat and other poultry products from Sinaloa and Sonora would cause U.S. farm gate prices to decrease marginally, benefiting U.S. consumers.

Our economic analysis examines the potential economic effects of such imports under low- (100 metric tons per year), medium- (1,000 metric tons per year), and high- (5,000 metric tons per year) volume scenarios. We chose these levels because 5,000 metric tons is the highest volume of poultry meat Mexico has ever exported to the world. Further,

recently, there have been years when Mexico has exported no poultry meat. Therefore, we used the above import level scenarios based on Mexico's poultry export history.

For the low-volume scenario, consumer surplus is estimated to increase by \$67,172 (1996 dollars) and producer surplus would decrease by \$67,166, resulting in a net annual benefit of \$6. The price of poultry would fall by \$0.006 per metric ton. The medium-volume scenario shows an increase in consumer surplus of \$671,734, a decrease in producer surplus of \$671,645, and a net benefit of \$89. The price of poultry would decrease by \$0.063 per metric ton. Under the high-volume scenario, consumer surplus would rise by \$3,358,942, and producer surplus would fall by \$3,357,902, for a net benefit of \$1,040. Poultry prices would decrease by \$0.30 per metric ton. It is apparent that expected impacts are very small for each of the scenarios.

#### The United States' Poultry Market

Since the mid-1960s, there have been dramatic changes in the market structure, production technology and retail marketing of broiler products. Production efficiency has been increased by continuing improvements in genetics, nutrition, housing, equipment, disease control, and management. Improved production efficiency is demonstrated in the reduction of feed and time required for producing a broiler chicken. Growing a 4.5 lb. broiler in 1940 required 14 weeks and 4 lb. of feed per pound of live bird. Today, the same size bird can be produced in 6.5 weeks with less than 2 lb. of feed per pound of bird.

Managerial decisionmaking has shifted from single proprietorship farming operations to vertically integrated poultry producing-processing-marketing firms, in which production and marketing decisions are centralized in a single entity that is either owned directly or controlled through contracts.

Improvement in poultry house technology enables producers to raise chickens in large confinement units throughout the year, resulting in increased production efficiency and consequent reductions in production cost. By 1995, almost all (99 percent) broilers were produced by vertically integrated companies. In 1978, in the United States, the four largest broiler companies controlled 21.4 percent of national production, and the eight largest broiler companies controlled 36.1 percent. By 1992 the four largest companies produced approximately 41

percent of national production, while the eight largest companies produced about 56 percent.

The potential economic effects of the proposed importation of poultry meat and other poultry products from the Mexican States of Sinaloa and Sonora on national, regional, and local poultry producers are dependent on a number of factors, such as where the products would be consumed in the United States. While it is currently unknown exactly how poultry meat and other poultry products from Sinaloa and Sonora would enter U.S. marketing and distribution channels and where they would ultimately be consumed, it is likely that they would be shipped by truck through Nogales, AZ. Other U.S. States in the region that could receive poultry from Sinaloa and Sonora are California, New Mexico, and Texas. It is unclear whether poultry from Sinaloa and Sonora would be consumed only in these four States. If poultry from Sinaloa and Sonora were purchased by a local retail chain or wholesaler, it would likely be consumed regionally. If it were purchased by a national wholesaler, it could be consumed anywhere in the United States. The effect on small producers would be more pronounced if Sinaloa and Sonora imports affected only California, Arizona, New Mexico, and Texas producers. For the purpose of this analysis, we examined both the possibility that poultry meat and other poultry products from Sinaloa and Sonora would be consumed locally in these four southwestern States, and also the possibility that they would enter national distribution channels.

The Small Business Administration (SBA) defines small poultry farms (Standard Industrial Code 0251) as those earning less than \$500,000 in annual sales, except for sales of chicken eggs. Industry experts suggest that only those poultry operations producing in excess of 270,000 broiler chickens would earn \$500,000 or more in sales annually.

According to the SBA definition, at least 99 percent of poultry farms in Arizona, New Mexico, and Texas and 97 percent of poultry farms in California are small entities. There were 1,425 small poultry farms in the four states in 1992, and only 7 farms with estimated annual revenues greater than \$500,000. For the United States as a whole, in 1992, there were an estimated 11,626 small poultry farms, and 14 large poultry farms. Although some structural changes may have occurred among broiler producers since the 1992 Census of Agriculture, it can be assumed that poultry farms remain predominantly small entities.

According to the 1992 Census of Agriculture, in 1992, California's average sales by small broiler farms (\$97,540) were higher than the national average (\$85,883), while sales in Texas were lower (\$73,429). There are no comparable data for Arizona's and New Mexico's broiler farmers.

Whether we consider the United States as a whole or only selected southwestern States, the overwhelming majority of poultry farms are small entities. It is reasonable to conclude that, if U.S. poultry producers are affected by this proposed rule, a substantial number would be small entities.

#### Economic Impact on Small Entities

There is no general rule that sets threshold or trigger levels for "significant economic impact;" however, it has been suggested that an economic effect that equals a small business' profit margin—5 to 10 percent of annual sales—could be considered significant.<sup>1</sup>

We used estimated changes in producer surplus together with the 1992 Census of Agriculture data on poultry inventories and poultry sales to develop very rough estimates of the economic impact of the proposed rule on small poultry farmers across the United States and in selected southwestern States. To do this, we assumed that losses in producer surplus are shared equally among all poultry farms in the geographic area under consideration (either the entire United States or selected southwestern States). We then compared per farm changes in producer surplus with small farms' annual sales to determine whether the economic effects approached the 5–10 percent threshold.

If poultry meat and other poultry products from Sinaloa and Sonora entered national distribution channels and, therefore, economic effects were shared by all U.S. producers, there would not be a significant economic impact on small entities no matter which level (low, medium, or high volume) of imports is assumed. Producer surplus losses per U.S. poultry farm would range from \$2 to \$103 per year, and these amounts are substantially less than 1 percent of the typical small poultry farmer's annual sales in every scenario.

If, under the high-volume scenario, the maximum 5,000 metric tons were imported annually from Sinaloa and Sonora and consumed locally in Arizona, California, New Mexico, and Texas, there likely would not be a

<sup>1</sup> Verkuil, *Duke Law Journal*, 1982.

significant economic impact on small entities no matter which level (low, medium, or high volume) of imports is assumed. Producer surplus losses per poultry farm in the selected southwestern States would range from \$10 to \$488 per year, and these amounts are less than 1 percent of the typical small California or Texas poultry farmer's annual sales in every scenario. Since we have no data available on sales in Arizona and New Mexico, we cannot determine the effect of this proposal on producers in those States.

A substantial number (99 percent) of U.S. broiler farms meet the SBA size criteria for designation as small entities. However, the proposed rule is not likely to have a significant economic impact on them. Even under the high-volume import assumption, there would not be a significant economic impact on small U.S. poultry farms, no matter where the Mexican poultry is imported and consumed. Under the most extreme assumptions (imports of 5,000 metric tons and limited geographic area affected), small poultry producers in California and Texas would experience losses in producer surplus equaling less than 1 percent of annual sales, which does not meet the suggested criteria for significant economic impact. Further, we expect that this action will have a similar effect on small poultry producers in Arizona and New Mexico, though we do not have the data to confirm this.

If this rule is adopted, it is very unlikely that a volume of 5,000 metric tons of poultry meat or other poultry products will be exported from Sinaloa and Sonora to the United States since Mexico is not a major exporter of poultry meat or other poultry products. Mexico had yearly world exports of 5,000 metric tons of poultry meat and poultry products in 1990, 1991, and 1992. However, in 1993, 1994, 1995, Mexico exported no poultry meat and other poultry products, and since 1996 has exported less than 1000 metric tons of poultry meat and other poultry products annually.

Further, even under the high-volume scenario (5,000 metric tons), Mexico's exports to the United States represent less than .05 percent of total U.S. poultry production (over 14 million metric tons in 1997).

#### Alternatives Considered

In developing this proposed rule, we considered: (1) Making no changes to the existing regulations governing the importation of poultry meat and other poultry products from Sinaloa or Sonora, Mexico; (2) proposing to allow the importation of poultry meat and

other poultry products from Sinaloa and Sonora under conditions different from those proposed; or (3) proposing to allow the importation of poultry and poultry products from Sinaloa and Sonora under the conditions proposed in this document.

We rejected the first alternative because poultry meat and other poultry products from Sinaloa and Sonora appear to present little risk of introducing END into the United States, and taking no action would not be scientifically defensible and would be contrary to trade agreements entered into by the United States. We also rejected the second alternative, which would allow the importation of poultry meat and other poultry products from Sinaloa and Sonora under conditions other than those proposed. We believe that using conditions less stringent than those proposed for the importation of poultry meat and other poultry products from Sinaloa and Sonora would increase the risk of the introduction of END into the United States to more than a negligible level and that using more stringent conditions would be unnecessarily restrictive. We believe the proposed conditions to be both effective and necessary in reducing to a negligible level the risk of the introduction of END through the importation of poultry meat and other poultry products imported into the United States from Sinaloa and Sonora, Mexico. Further, we invite public comment on the risk-mitigating controls and requirements we have proposed in this document.

The proposed changes to the regulations would result in new information collection or recordkeeping requirements, as described below under the heading "Paperwork Reduction Act."

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of poultry meat and other poultry products from Sinaloa and Sonora, Mexico, under the conditions specified in this

proposed rule would not present a significant risk of introducing or disseminating END into the United States and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–034–1. Please send a copy of your comments to: (1) Docket No. 98–034–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the regulations to relieve certain restrictions on the importation of poultry meat and other poultry products from Sinaloa and

Sonora, Mexico, by establishing new conditions for the importation of fresh and processed poultry and poultry products from Sinaloa and Sonora into the United States.

Implementing this proposed rule would necessitate the use of two paperwork collection activities: the completion of a foreign meat inspection certificate and the placing of seals on shipping containers.

We are asking OMB to approve our use of these information collections in connection with our program to import poultry meat and other poultry products from the Mexican States of Sinaloa and Sonora.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the proposed information collection on those who are to respond, (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this proposed collection of information is estimated to average 0.133 hours per response.

*Respondents:* Full-time, salaried veterinarians of the Government of Mexico.

*Estimated annual number of respondents:* 4.

*Estimated annual number of responses per respondent:* 15.

*Estimated annual number of responses:* 60.

*Estimated total annual burden on respondents:* 8 hours.

Copies of this information collection can be obtained from Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250.

#### List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry

and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

#### **PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS**

1. The authority citation for part 94 would continue to read as follows:

**Authority:** 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. A new § 94.22 would be added to read as follows:

#### **§ 94.22 Importation of poultry meat and other poultry products from Sinaloa and Sonora, Mexico.**

Notwithstanding any other provisions of this part, poultry meat and other poultry products from the States of Sinaloa and Sonora, Mexico, may be imported into the United States under the following conditions:

(a) The poultry meat or other poultry products are derived from poultry born and raised in Sinaloa or Sonora and slaughtered in Sinaloa or Sonora at a federally inspected slaughter plant under the direct supervision of a full-time salaried veterinarian of the Government of Mexico, and the slaughter plant must be approved to export poultry meat and other poultry products to the United States in accordance with 9 CFR 381.196.

(b) If processed, the poultry meat or other poultry products were processed in either Sinaloa or Sonora, Mexico, in a Federally inspected processing plant that is under the direct supervision of a full-time salaried veterinarian of the Government of Mexico.

(c) The poultry meat or other poultry products have not been in contact with poultry from any State in Mexico other than Sinaloa or Sonora or with poultry from any other region not listed in § 94.6 as a region where exotic Newcastle disease is not known to exist.

(d) The foreign meat inspection certificate accompanying the poultry meat or other poultry products (required by § 381.197 of this title) includes statements certifying that the requirements in paragraphs (a), (b), and (c) of this section have been met and, if applicable, listing the numbers of the seals required by paragraph (e)(1) of this section.

(e) The shipment of poultry meat or other poultry products has not been in any State in Mexico other than Sinaloa or Sonora or in any other region not listed in § 94.6 as a region where exotic Newcastle disease is not known to exist, unless:

(1) The poultry meat or other poultry products arrive at the U.S. port of entry in shipping containers bearing intact, serially numbered seals that were applied at the Federally inspected slaughter plant by a full-time salaried veterinarian of the Government of Mexico, and the seal numbers correspond with the seal numbers listed on the foreign meat inspection certificate; or

(2) The poultry meat or other poultry products arrive at the U.S. port of entry in shipping containers bearing seals that have different numbers than the seal numbers on the foreign meat inspection certificate, but, upon inspection of the hold, compartment, or container and all accompanying documentation, an APHIS representative is satisfied that the poultry containers were opened and resealed en route by an appropriate official of the Government of Mexico and the poultry meat or other poultry products were not contaminated or exposed to contamination during movement from Sinaloa or Sonora to the United States.

Done in Washington, DC, this 17th of May 1999.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 99-12885 Filed 5-20-99; 8:45 am]

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## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

#### **18 CFR Parts 2, 153, 157, 380**

[Docket No. RM98-17-000]

#### **Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements; Notice of Proposed Rulemaking**

April 28, 1999.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations under the Natural Gas Act (NGA) by adding certain early landowner notification requirements that will