requires licensing of only wholesale dealers (i.e., those dealers who sell animals to other dealers) of hunting, breeding, and security dogs.

In accordance with the AWA, we will now require licensing and inspection for wholesale dealers of dogs intended primarily for hunting, breeding, and security purposes. We are instituting this policy to help ensure the humane handling, care, and treatment of hunting, breeding, and security dogs.

Although it has been our policy until now not to require dealers of hunting, breeding, and security dogs to be licensed and inspected, our regulations do. Specifically, the regulations at § 2.1 require that all dealers of dogs must be licensed and inspected. Our current definition of ''dealer'' in § 1.1 includes both wholesale and retail dealers of hunting, breeding, and security dogs. These dealers are not provided any exemption from licensing and inspection under the definition of ''retail pet store'' in § 1.1. Therefore, in the near future, we will publish a document in the **Federal Register** to propose changing the regulations to require only wholesale dealers of hunting, breeding, and security dogs to be licensed and inspected. This action will bring our regulations into accord with the AWA and with our new policy, now in effect, to regulate wholesale dealers of hunting, breeding, and security dogs. The proposal will also solicit public comment on the new policy.

The AWA licensing requirements for animal dealers are contained in 9 CFR part 2, subpart A, and the care standards for dogs and cats are contained in 9 CFR part 3, subpart A. For information about becoming licensed as a dealer under the AWA, contact the person listed above under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(g).

Done in Washington, DC, his 12th day of July 1999.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–18319 Filed 7–16–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 98–028–2]

Importation of Poultry Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for importing animal products to allow the importation of poultry carcasses and parts or products of poultry carcasses from regions where exotic Newcastle disease (END) is considered to exist if they originated in a region free of END and meet certain conditions with respect to processing and shipping. This action removes some restrictions on the importation of poultry products from regions where END is considered to exist. We believe the conditions for importation will continue to protect the United States from END.

EFFECTIVE DATE: July 19, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Animals and Germplasm Programs, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 734–5034; or e-mail: michael.j.david@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 govern the importation of certain animals, birds, poultry, meat, animal products, animal byproducts, hay, and straw into the United States in order to prevent the introduction of communicable diseases of livestock and poultry. The regulations in § 94.6 (referred to below as the regulations) govern, among other things, the importation of poultry carcasses, parts, and products from regions where exotic Newcastle disease (END) is considered to exist.

Under the regulations in place when our proposed rule was published, poultry carcasses and parts or products of poultry carcasses could be imported into the United States from regions where END was considered to exist if certain conditions were met, such as the poultry carcasses were sent to an approved museum, were hermetically sealed and cooked, or were thoroughly cooked. The regulations were described in greater detail in the proposed rule.

On December 9, 1998, we published in the **Federal Register** (63 CFR 67809–67813, Docket No. 98–028–1) a proposal to amend § 94.6 to allow poultry carcasses and parts or products of poultry carcasses to be imported into the United States from regions where END is considered to exist if they originated in a region free of END and meet certain requirements with respect to processing and shipping.

We solicited comments concerning our proposal for 60 days ending February 8, 1999. We received six comments by that date. They were from representatives of State governments, trade associations, and the scientific community. Four commenters supported the proposed rule. Two commenters expressed concern that the proposed rule would have negative effects on the U.S. domestic poultry processing industry. Their concerns are addressed below.

Comment: The proposed ''system'' of poultry carcass export, processing, and reimportation cannot be assured to be risk free. There is no inspection or enforcement system strong enough to ensure that END will not be introduced into the United States.

Response: If zero tolerance for disease risk were the standard applied to international trade in agricultural commodities, it is quite likely that no country would ever be able to export a fresh animal product to any other country. There will always be some degree of disease risk associated with the movement of animal products; APHIS' goal is to reduce that risk to an insignificant level. For the reasons explained in the proposed rule, we believe that the safeguards contained in this final rule will reduce the disease risk associated with the importation of poultry carcasses and parts or products of poultry carcasses to an insignificant level.

Comment: The current import restrictions for Mexican poultry are consistent with the United States obligations under the North American Free Trade Agreement (NAFTA), Article 712.1, and do not require amendment.

Response: Article 712.1 of NAFTA states.

> Each [country] may, in accordance with this Section, adopt, maintain, or apply any sanitary or phytosanitary measure necessary for the protection of human, animal, or plant life or health in its territory, including a measure more stringent than an international standard, guideline, or recommendation.

While Article 712.1 allows a country to adopt measures more stringent than an international standard, we believe other NAFTA Articles, including

Articles 712.5 and 715.3, obligate us to take this action. Under Article 712.5:

> Each [country] shall ensure that any sanitary or phytosanitary measure that it adopts, maintains, or applies is applied only to the extent necessary to achieve its appropriate level of protection . . .

Further, Article 715.3 states:

> Each [country], in establishing its appropriate level of protection . . . should take into account the objective of minimizing negative trade effects.

The Mexican Government requested the change we are making in this rule. This rule will allow poultry carcasses and parts or products of poultry carcasses from regions that are free of END to be imported into the United States via another region where END is considered to exist, provided the meat or other products have been safeguarded as specified in this rule to prevent contamination. We have determined that such poultry meat or other poultry products will not present a significant risk of introducing END into the United States. Therefore, we believe we are obligated under NAFTA to proceed with this action.

Comment: The major result of the proposal would be to encourage the export of poultry carcasses from the United States to Mexico for processing with the finished product returned to the United States for final sale. The proposal would lead to the establishment of a poultry processing industry in Mexico, where worker safety and health and environmental standards are lax.

Response: As stated below in our Final Regulatory Flexibility Analysis, we cannot determine the extent to which this rule will encourage, or result in, increased volumes of poultry to be exported from the United States for processing in Mexico. However, it is likely that any increased poultry production would be a small percentage of Mexico's total poultry production. Further, we believe it is highly unlikely that new processing facilities will be constructed specifically to process poultry eligible for export to the United States under this rule, since there is already a large poultry processing industry in place in Mexico. Because the poultry eligible for export under this rule would likely be processed in existing facilities and would represent a small percentage of Mexico's total production, this rule would likely have a minimal effect on worker health and safety and the environment.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register.** This action removes some restrictions on the importation of poultry products from regions where END is considered to exist. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register.**

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis, which is set out below, regarding the economic effects of this rule on small entities.

This rule amends the regulations for importing animal products to allow the importation of poultry carcasses and parts or products of poultry carcasses from regions where exotic Newcastle disease (END) is considered to exist if they originated in a region free of END and meet certain conditions with respect to processing and shipping. This rule removes some restrictions on the importation of poultry carcasses and parts or products of poultry carcasses from regions where END is considered to exist. As stated in our proposal, the most likely outcome of this rule is that U.S.-origin poultry carcasses and parts or products of poultry carcasses would be shipped to Mexico for processing and then returned to the United States.

In our proposal, we solicited comments on the potential effects of the proposed action on small entities. In particular, we sought data and other information to determine the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. We received no comments providing specific data in relation to the proposed rule's Initial Regulatory Flexibility Analysis, but two of the commenters expressed concern that the proposal could negatively affect U.S. poultry processing establishments that could lose business to less costly Mexican processing operations.

Our Initial Regulatory Flexibility Analysis agreed that it is possible that, under this rule, U.S. producers would ship poultry carcasses or products to Mexico for processing to take advantage of lower processing costs or to use Mexican processing plants as supplements to the existing U.S. workforce and facilities. However, we stated that we could not predict to what extent U.S. firms would elect to send poultry to Mexico for processing, nor could we determine what effect this rule would have on the volume of poultry processed in U.S. processing facilities. The commenters did not provide any data. Therefore, we are unable to determine the effect of this rule on small or large poultry processors in the United States.

This rule may benefit U.S. truckers and haulers, wholesale traders, and poultry producers and packers, who stand to benefit from increased Mexican trade. However, as stated above, because we are unable to predict the volume of processed poultry meat or other poultry products that would be imported into the United States under this rule, we cannot determine the effect of this rule on the U.S. entities listed above, whether small or large.

Trade Relations

This rule removes some restrictions on the importation of poultry carcasses and parts or products of poultry carcasses from regions where END is considered to exist. Consequently, the rule could encourage a positive trading environment between the United States and Mexico and other regions where END is considered to exist by stimulating economic activity and providing export opportunities to foreign poultry processing industries.

Alternatives Considered

In developing this rule, we considered: (1) Making no changes to the regulations governing the importation of poultry from regions where END is considered to exist; (2) allowing the importation of poultry carcasses and parts or products of poultry carcasses that originated in a region free of END but that were processed in a region where END is considered to exist under conditions different from those proposed; or (3) allowing the importation of poultry carcasses and parts or products of poultry carcasses that originated in a region free of END but that were processed in a region where END is considered to exist under the conditions in this document.

We rejected the first alternative because we believe this rule provides a way to remove trade restrictions while maintaining adequate safeguards against the introduction of END into the United States. Under these circumstances,

making no changes to the regulations would be contrary to trade agreements entered into by the United States.

We also rejected the second alternative because we believe that conditions less stringent than those proposed would increase the risk of the introduction of END into the United States to more than a negligible level and that more stringent conditions would be unnecessarily restrictive. We consider the conditions in this rule to be both effective and necessary in keeping at a negligible level the risk of imported poultry products introducing END into the United States.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0141.

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 are amending 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 continues 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, 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).

§ 94.18 Amended]

2. In § 94.18, footnotes 15 and 16 and their references are redesignated as footnotes 17 and 18, respectively.

§ 94.17 [Amended]

3. In § 94.17, footnote 2 is redesignated as footnote 16 and is revised to read: ''See footnote 15 in § 94.17(e) of this part.''

§§ 94.6, 94.8, 94.9, 94.12, 94.16, and 94.17 [Amended]

4. In §§ 94.6, 94.8, 94.9, 94.12, 94.16, and 94.17, footnotes 5 through 14 and their references are redesignated as footnotes 6 through 15, respectively.

5. In § 94.12 the newly redesignated footnote 13 is revised to read: ''See footnote 10 in § 94.9 of this part.''

6. In § 94.6, the section heading is revised, paragraph (c)(5) is redesignated as paragraph (c)(6), and a new paragraph (c)(5) is added to read as follows:

§ 94.6 Carcasses, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds; importations from regions where exotic Newcastle disease (END) or S. enteritidis is considered to exist.

* * * * *

(c) * * *

(5) Poultry carcasses or parts or products of poultry carcasses that originated in a region considered to be free of END and are processed (cut, packaged, and/or cooked) in a region where END is considered to exist may be imported under the following conditions:

(i) *Shipment to approved establishments.* (A) The poultry carcasses or parts or products of poultry carcasses must be shipped from the END-free region where they originated in closed containers sealed with serially numbered seals applied by an official of the national government of that region. They must be accompanied by a certificate that is signed by an official of that region's national government and that specifies the products' region of origin, the processing establishment to which the poultry carcasses or parts or products of poultry carcasses are consigned, and the numbers of the seals applied to the shipping containers.

(B) the poultry carcasses or parts or products of poultry carcasses may be removed from containers at the processing establishment in the region where END is considered to exist only after an official of that region's national government has determined that the seals are intact and free of any evidence of tampering. The official must attest to this fact by signing the certificate accompanying the shipment.

(ii) *Handling of poultry carcasses or parts or products of poultry carcasses.* Establishments [5] in regions where END is considered to exist that process poultry carcasses or parts or products of poultry carcasses for export to the United States:

(A) May not receive or handle any live poultry.

(B) Must keep any records required by this section on file at the facility for a period of at least 2 years after export of processed products to the United States, and must make those records available to USDA inspectors during inspections.

(C) May process poultry carcasses or parts or products of poultry carcasses that originate in both END-free regions and regions where END is considered to exist, provided that:

(*1*) All areas, utensils, and equipment likely to contact the poultry carcasses or parts or products of poultry carcasses to be processed, including skimming, deboning, cutting, and packing areas, are cleaned and disinfected between processing poultry from regions where END is considered to exist and poultry carcasses or parts or products of poultry carcasses from END-free regions.

(*2*) Poultry carcasses or parts or products of poultry carcasses intended for export to the United States are not handled, cut, or otherwise processed at the same time as any poultry not eligible for export to the United States.

(*3*) Poultry carcasses or parts or products of poultry carcasses intended for export to the United States are packed in clean new packaging that is clearly distinguishable from that containing any poultry not eligible for export to the United States.

(*4*) Poultry carcasses or parts or products of poultry carcasses are stored in a manner that ensures that no cross-contamination occurs.

(iii) *Cooperative service agreement.* Operators of processing establishments must enter into a cooperative service agreement with APHIS to pay all expenses incurred by APHIS in inspecting the establishment. APHIS anticipates that such inspections will occur once a year. The cooperative service account must always contain a balance that is at least equal to the cost of one inspection. APHIS will charge the cooperative service account for travel, salary, and subsistence of APHIS employees, as well as administrative overhead and other incidental expenses (including excess baggage charges up to 150 pounds).

(iv) *Shipment to the United States.* Poultry carcasses and parts or products

[5] As a condition of entry into the United States, poultry or poultry products must also meet all of the requirements of the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) and regulations thereunder (9 CFR part 381), including requirements that the poultry or poultry products be prepared only in approved establishments.

of poultry carcasses to be imported into the United States must be shipped from the region where they were processed in closed containers sealed with serially numbered seals applied by an official of the national government of that region. The shipments must be accompanied by a certificate signed by an official of the national government of the region where the poultry was processed that lists the numbers of the seals applied and states that all of the conditions of this section have been met. A copy of this certificate must be kept on file at the processing establishment for at least 2 years.

* * * * *

Done in Washington, DC, this 13th day of July, 1999.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–18320 Filed 7–16–99; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF95

Monitoring the Effectiveness of Maintenance at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its power reactor safety regulations to require that licensees assess the effect of equipment maintenance on the plant's capability to perform safety functions before beginning maintenance activities on structures, systems, and components (SSCs) within the scope of the maintenance rule. The amendments clarify that these requirements apply under all conditions of operation, including shutdown, and that the assessments are to be used so that the increase in risk that may result from the maintenance activity will be managed to ensure that the plant is not inadvertently placed in a condition of significant risk or a condition that would degrade the performance of safety functions to an unacceptable level. These amendments permit licensees to limit the scope of the assessments to SSCs that a risk-informed evaluation process has shown to be significant to public health and safety.

EFFECTIVE DATE: The final rule becomes effective 120 days after issuance of Revision 3 to Regulatory Guide 1.160, ''Monitoring the Effectiveness of Nuclear Power Plants.'' The NRC will publish a document in the **Federal Register** that announces the issuance of the revised guidance and that specifies the effective date.

FOR FURTHER INFORMATION CONTACT: Richard P. Correia, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, 301–415–1009, e-mail rpc@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC's maintenance team inspections of all nuclear power plant licensees in the late 1980s found the lack of consideration of plant risk in prioritizing, planning, and scheduling maintenance activities to be a common weakness. To address that weakness, paragraph (a)(3) of 10 CFR 50.65, the maintenance rule, currently includes the provision that ''(I)n performing monitoring and preventive maintenance activities, an assessment of the total plant equipment that is out of service should be taken into account to determine the overall effect on performance of safety functions.'' The maintenance rule was issued on July 10, 1991 (56 FR 31306).

During plant visits in mid-1994, several NRC senior managers expressed concerns that licensees were increasing both the amount and frequency of maintenance performed during power operation without adequately evaluating safety when planning and scheduling these maintenance activities. The NRC Executive Director for Operations (EDO) addressed these concerns regarding the safety implications of performing maintenance while at power to the President of the Institute of Nuclear Power Operations (INPO) in a letter dated October 6, 1994. In this letter, the EDO noted that it appeared that some licensees were either not following INPO guidelines for the conduct of maintenance and management of outages or had adopted only portions of the guidance. The EDO also recommended that INPO support the Nuclear Energy Institute (NEI) and appropriate utility managers during meetings with NRC senior managers to discuss the concerns they raised during the site visits.

The growing amount of on-line maintenance (i.e., maintenance during power operations) being performed by licensees and the quality of pre-maintenance assessments have merited the Commission's concern. To address this concern, to clarify the plant operating conditions under which the maintenance rule is applicable, and to make the requirements fully enforceable, the Commission published proposed revisions to 10 CFR 50.65 in the **Federal Register** on September 30, 1998 (63 FR 52201–52206). The 75-day comment period closed December 14, 1998.

II. Comments on the Proposed Rule

Twenty-nine comments were submitted during the comment period, and five were submitted after the comment period closed. Copies of the letters are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC. The last public comment was received on December 29, 1998. All comments were considered in formulating the final rule. The 34 comments were submitted by 26 utilities with operating power reactors, one utility with a decommissioning status facility, three nuclear industry service companies or consultants, one individual, one State agency, NEI, and one law firm representing several utilities. Twenty-nine commentors endorsed the NEI comments. NEI stated in its comment letter that the industry generally supports the Commission's intent in the proposed rule but has a number of significant concerns that should be addressed before rulemaking proceeds. Of the commentors who did not endorse the NEI comments, one (combined State agencies) supported the concept of the proposed rule and provided comments to enhance it, and two others (an individual and a utility) provided recommendations in specific areas to enhance the proposed rule. Two of the commentors (a consultant and a consulting firm) stated that the rule was unnecessary and presented supporting reasons.

The comments have been grouped under the following general topics:

1. Rule issuance
2. New, vague, ambiguous, undefined terminology in the proposed rule
3. Scope issues
4. Suggestions for wording modifications
5. Regulatory controls overlapping technical specifications
6. Performing assessments
7. Assessing and managing risk
8. Emergent maintenance requirements
9. Documentation of the assessment
10. Definition of availability
11. Backfit and regulatory analyses
12. Regulatory analysis cost estimates
13. Application to decommissioning plants

Summaries of the grouped comments and discussions of the NRC responses follow.