

SAMPLE ADMINISTRATIVE LAW EXAM QUESTIONS
PROFESSOR JOHN OHNESORGE
FOR FALL 2002 CLASS

Final Exam in Admin. Law
Wednesday, May 10, 2000

Prof. Clauss
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QUESTION ONE
(Allow 70 minutes for this question)

The Food Safety and Inspection Service (FSIS), located in the Department of Agriculture (USDA), is responsible for "the inspection of poultry and poultry products ... to prevent the movement or sale ... of poultry products which are adulterated or misbranded." According to the statute, poultry is adulterated when "it bears or contains poisonous or deleterious substance which may render it injurious to health." FSIS also inspects meat and, pursuant to explicit statutory direction, classifies all meat to be sold as either Grade A or B. FSIS thus has no important mandate) providing accurate information to consumers, and protecting the public's health. About 40% of raw poultry is contaminated with salmonella, a bacterium that causes various diseases in humans and animals. Although FSIS inspects poultry processors, at least 40,000 salmonella infections are reported each year to the Center for Disease Control; about 500 of these infected persons die each year. This same statute requires that the USDA protect the "... public from unsafe poultry or poultry products that are imported into the United States. For poultry that is imported from countries *other than* Mexico and Canada, USDA is to ensure that the poultry is "subject to the *same* inspection, sanitary, quality, species verification and residue standards applied to products produced in the United States," and has "been processed in facilities and under conditions that are the *same* as those under which similar products are processed in the United States." (Emphasis added.) For poultry that is imported from Canada and Mexico, USDA is to ensure that the poultry is "subject to the inspection, sanitary, quality, species verification, and residue standards that are *equivalent to* United States standards" and has "been processed in facilities and conditions that meet standards that are *equivalent to* United States standards." (Emphasis added.)

The USDA has promulgated two regulations that clients of your firm dislike.

QUESTION 1A. The first regulation concerns the exportation of poultry to the United States from any foreign country. This regulation is as follows:

Whenever it shall be determined by the [FSIS] Administrator that the system of poultry inspection maintained by any foreign country, (with respect to establishments preparing products in such country for export to the United States,) ensures compliance of such establishments and their poultry products, with requirements *at least equal to all* the provisions of the Act and the regulations in this part which are applied to official establishments in the United States and their poultry products, "that reliance can be placed upon certificates required under this subpart from authorities of such foreign country, poultry products processed in such establishments which are certified and approved ... shall be eligible ... for importation into the United States (Emphasis added.)

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