

Proposed Rules

Federal Register

Vol. 72, No. 37

Monday, February 26, 2007

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

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. FSIS–2006–0030]

RIN 0583–AD25

Eligibility of Chile To Export Poultry and Poultry Products to the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to add Chile to the list of countries eligible to export poultry and poultry products to the United States. Reviews by FSIS of Chile's laws, regulations, and inspection implementation show that its poultry inspection system requirements are equivalent to the relevant provisions of the Poultry Products Inspection Act (PPIA) and its implementing regulations.

Under this proposal, poultry and poultry products processed in certified Chilean establishments may be exported to the United States. All such products will be subject to re-inspection at United States ports-of-entry by FSIS inspectors.

DATES: Comments must be received on or before April 27, 2007.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov> and, in the "Search for Open Regulations" box, select "Food Safety and Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select FDMS Docket

Number FSIS–2006–0030 to submit or view public comments and to view supporting and related materials available electronically.

Mail, including floppy disks or CD-ROM's, and hand-or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250.

Electronic mail:
fsis.regulationscomments@fsis.usda.gov.

All submissions received by mail or electronic mail must include the Agency name and docket number FSIS–2006–0030. All comments submitted in response to this proposal, as well as research and background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. Comments will also be posted on the Agency's Web site at http://www.fsis.usda.gov/regulations_&_policies/2006_Proposed_Rules_Index/index.

FOR FURTHER INFORMATION CONTACT: Ms. Sally White, Director, International Equivalence Staff, Office of International Affairs; (202) 720–6400.

SUPPLEMENTARY INFORMATION:

Background

The Food Safety and Inspection Service (FSIS) is proposing to amend its poultry products inspection regulations to add Chile to the list of countries eligible to export poultry and poultry products to the United States (9 CFR 381.196). Chile is not currently listed as eligible to export such products to the United States.

Statutory Basis for Proposed Action

Section 17 of the PPIA (21 U.S.C. 466) prohibits importation into the United States of slaughtered poultry, or parts or products thereof, of any kind unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient that renders them unhealthful, unwholesome, adulterated, or unfit for human food. Under the PPIA and the regulations that implement it, poultry products imported into the United States must be produced under standards for safety, wholesomeness, and labeling accuracy that are

equivalent to those of the United States. Section 381.196 of Title 9 of the CFR sets out the procedures by which foreign countries wanting to export poultry and poultry products to the United States may become eligible to do so.

Section 381.196(a) provides that a foreign country's poultry inspection system must include standards equivalent to those of the United States, and that the legal authority for the inspection system and its implementing regulations must also be equivalent to those of the United States. Specifically, a country's regulations must impose requirements equivalent to those of the United States with respect to: (1) Ante-mortem and post-mortem inspection; (2) official controls by the national government over plant construction, facilities, and equipment; (3) direct and continuous supervision of slaughter activities, where applicable, and product preparation by official inspection personnel; (4) separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; and (6) official controls over condemned product.

The foreign country's inspection system must ensure that establishments preparing poultry or poultry products for export to the United States, and their products, comply with requirements equivalent to those of the PPIA and the regulations promulgated by FSIS under the authority of that statute. The foreign country certifies the appropriate establishments as having met the required standards. The country must satisfy FSIS that the certifications it issues are reliable before FSIS will grant approval to the country to export poultry or poultry products to the United States (9 CFR 381.196). To assess the reliability of the foreign country's certifications, FSIS evaluates the country's inspection system and performs ongoing reviews of that system. To ensure that products imported into the United States are safe, wholesome, and properly labeled and packaged, FSIS randomly re-inspects and samples those products before they enter the United States.

In addition to meeting the certification requirements, a foreign country's inspection system must be evaluated by FSIS before eligibility to export poultry or poultry products to

the United States can be granted. This evaluation consists of two processes: a document review and an on-site review. The document review is an evaluation of the laws, regulations, and other written materials used by the country to effect its inspection program. To help the country in organizing its material, FSIS gives the country questionnaires asking for detailed information about the country's inspection practices and procedures in five risk areas. These five risk areas, which are the focus of the evaluation, are sanitation, animal disease, slaughter/processing, residues, and enforcement. FSIS evaluates the information to verify that the critical points in the five risk areas are addressed satisfactorily with respect to standards, activities, resources, and enforcement. If the document review is satisfactory, an on-site review is scheduled using a multi-disciplinary team to evaluate all aspects of the country's inspection program, including laboratories and individual establishments within the country. The process of determining equivalence is described fully on the FSIS Web site at http://www.fsis.usda.gov/regulations_and_policies/equivalence_process/index.asp.

The PPIA and the regulations that implement it require that foreign countries be listed as eligible in the Code of Federal Regulations. FSIS must do rulemaking to list a country as eligible. Countries found eligible to export poultry or poultry products into the United States are listed in the poultry inspection regulations at 9 CFR 381.196(b). Once listed, it is the responsibility of the eligible country to certify that establishments meet the requirements to export poultry or poultry products to the United States, and to ensure that products from these establishments are safe, wholesome, and not misbranded.

Evaluation of the Chilean Inspection System for Poultry and Poultry Products

In response to a request from Chile for approval to export poultry and poultry products to the United States, FSIS conducted a review of Chile's poultry slaughter inspection system to determine whether it is equivalent to the U.S. poultry inspection system. First, FSIS compared Chile's poultry inspection laws and regulations with U.S. requirements. The Agency concluded that the requirements contained in Chile's poultry slaughter inspection laws and regulations are equivalent to the PPIA and to the regulations that FSIS has adopted under the PPIA to effect that statute. FSIS then conducted two on-site reviews of Chile's

poultry slaughter inspection system in operation. The FSIS review team concluded that, as implemented, Chile's poultry slaughter standards and procedures are equivalent to those of the United States. The full report on Chile's poultry slaughter inspection system can be found on the FSIS Web site at http://www.fsis.usda.gov/regulations/foreign_audit_reports/index.asp.

As a country eligible to export poultry and poultry products to the United States, the government of Chile must certify to FSIS those establishments that wish to export such products to the United States and that operate in accordance with these requirements. FSIS will retain the right to verify that the establishments certified by Chile's government are meeting the U.S. requirements. This verification will be done through annual reviews of the establishments while they are in operation.

Although a foreign country may be listed as eligible to export poultry to the United States, the exporting country's products must also comply with all applicable U.S. requirements. These requirements include restrictions under 9 CFR part 94 of the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) regulations, which also regulate the exportation of meat or poultry products from foreign countries to the United States.

If this proposed rule is adopted, any poultry and poultry products exported to the United States from Chile will be subject to re-inspection at the ports-of-entry for transportation damage, labeling, proper certification, general condition, and accurate count. FSIS will also conduct other types of inspection, including examination of products for defects and sampling and laboratory analysis of products for chemical residues or for microbiological contamination. Products that pass re-inspection will be stamped with the official United States mark of inspection and allowed to enter U.S. commerce. If they do not meet U.S. requirements, they will be refused entry and must be re-exported, destroyed, or converted to animal food.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866 by the Office of Management and Budget (OMB) and has been determined to be not significant for purposes of E.O. 12866. The proposed rulemaking would add Chile to the list of countries eligible to export poultry and poultry products to the United States.

Economic Impact Analysis

This rule was designated as non-significant. It is expected that approximately five establishments in Chile will be exporting poultry and poultry products to the U.S. Chile expects to export raw young chicken breast (de-boned) products, starting in 2007 with 5,000 Metric Tons (MT) and reaching an estimated 12,000 MT in 2010. These estimates are based on Chile's actual and future production capacity and its decision to maintain an increasing presence in the export market. For comparison, FSIS estimated, based on data from the USDA Agricultural Marketing Service (AMS) and the National Agricultural Statistics Service (NASS), that in 2005 the U.S. produced about 1,444,000 MT of raw young chicken breast (deboned) products. Chile's estimated initial exports to the U.S. in 2007 should represent about three-tenths of one percent (5,000 MT/1,444,000 MT) of the U.S. domestic production of raw young chicken breast (deboned) products, in 2005. Further, if Chile's exports to the U.S. reach, in 2010, the estimate of 12,000 MT of raw young chicken breast (deboned) products, these imports will represent about eight-tenths of one percent (12,000 MT/1,444,000 MT) of the U.S. domestic production of raw young chicken breast (deboned) products in 2005.

The impact of this proposed rule on U.S. consumers is voluntary in that consumers will not be required to purchase poultry or poultry products produced and processed in Chile. Expected benefits from this type of proposed rule would accrue primarily to consumers in the form of lower prices. The small volume of trade stimulated by this proposed rule, however, will likely have little effect on supply and prices. Consumers, apart from any change in prices, would benefit in principle from increased choices at competitive price points in the marketplace.

The costs of this rule will accrue primarily to U.S. producers in the form of greater competition from Chile. Again, it must be noted that the volume of trade stimulated by this rule would be very small, likely having little discernible effect on supply and prices.

General benefits would include increased trade with Chile and the availability to U.S. consumers of a greater quantity of poultry and poultry products. Both nations would benefit from an expansion of trade in poultry and poultry products as part of a wide range of commodities.

Constraints on the expansion of trade in poultry and poultry products

between the United States and Chile are expected to occur mainly in the form of restrictions imposed under U.S. animal health laws. APHIS has agreed to supply FSIS with evaluations and current updates of the animal disease status of regions in Chile where establishments likely to export poultry and poultry product to the United States are located.

The additional poultry and poultry product shipments are likely to have only a slight effect on the Agency's assignment of import inspection resources at points of entry on the East and West coasts. It is unlikely, on the basis of current information, that any additional import inspection personnel would need to be hired.

Estimates of benefits and costs of increased trade in poultry and poultry products with Chile are based on data supplied by the FSIS Office of International Affairs and Office of Field Operations; Foreign Agricultural Service (FAS) databases and trade reports; Economic Research Service (ERS) databases, reports, and analyses; Agricultural Marketing Service (AMS) databases, reports, and analyses; National Agricultural Statistics Service (NASS) databases, reports, and analyses; and Census Bureau databases and reports. Standard economic analytical techniques were used in estimating effects of the proposed rulemakings.

The major source of uncertainty in estimating the effects of this proposed rule is in forecasting the number of establishments likely to be certified by Chile to export poultry and poultry products to the United States. Other, less important, sources of uncertainty include imprecision in the economic data consulted, e.g., estimates of demand and supply elasticities and probable errors in multi-year forecasts of prices for the poultry and poultry product commodities that would be regulated under the proposed rule.

Effect on Small Entities

The FSIS Administrator has made an initial determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This proposed rule would add Chile to the list of countries eligible to export poultry and poultry products to the United States. The volume of trade stimulated by this rule would be very small and would have minimal effect on poultry and poultry products supplies and prices. Therefore, this proposed rule is not expected to have a significant impact on small entities that produce these types of poultry and poultry products domestically.

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.

Paperwork Requirements

No new paperwork requirements are associated with this proposed rule. Foreign countries wanting to export poultry and poultry products to the United States are required to provide information to FSIS certifying that their inspection systems effect standards equivalent to those of the United States, and that the legal authority for the systems and their implementing regulations are equivalent to those of the United States. FSIS collects this information one time only. FSIS gave Chile questionnaires asking for detailed information about the country's inspection practices and procedures to assist that country in organizing its materials. This information collection was approved under OMB number 0583-0094. The proposed rule contains no other paperwork requirements.

Government Paperwork Elimination Act (GPEA)

FSIS is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public the option of communicating electronically with the government to the maximum extent possible. The Agency will ensure that all forms used by the establishments are made available electronically.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this proposed rule, FSIS will announce it on-line through the FSIS Web page located at http://www.fsis.usda.gov/regulations_&_policies/2006_Proposed_Rules_Index/index.asp.

The Regulations.gov Web site is the central online rulemaking portal of the United States government. It is being offered as a public service to increase participation in the Federal government's regulatory activities. FSIS participates in Regulations.gov and will accept comments on documents

published on the site. The site allows visitors to search by keyword or Department or Agency for rulemakings that allow for public comment. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to FSIS. The Web site is located at <http://www.regulations.gov/>.

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service that provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at http://www.fsis.usda.gov/news_and_events/email_subscription/ and allows FSIS customers to sign up for subscription options across eight categories. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

List of Subjects in 9 CFR Part 381

Imported products.

For the reasons set out in the preamble, FSIS is proposing to amend 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

§ 381.196 [Amended]

1. Section 381.196 is amended in paragraph (b) by adding Chile in alphabetical order to the list of countries.

Done at Washington, DC, on February 20, 2007.

Bryce Quick,

Acting Administrator.

[FR Doc. E7-3155 Filed 2-23-07; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM370; Notice No. 25-07-06-SC]

Special Conditions: Dassault Aviation Model Falcon 7X Airplane; Side Stick Controllers, Electronic Flight Control System: Lateral-Directional and Longitudinal Stability, Low Energy Awareness, Flight Control Surface Position Awareness, and Flight Characteristics Compliance via the Handling Qualities Rating Method; Flight Envelope Protection: General Limiting Requirements, High Incidence Protection Function, Normal Load Factor (g) Limiting, and Pitch, Roll, and High Speed Limiting Functions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Dassault Aviation Model Falcon 7X airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features include side stick controllers, electronic flight control systems, and flight envelope protections. These special conditions pertain to control and handling qualities of the airplane and protection limits within the normal flight envelope. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Dassault Model Falcon 7X airplanes.

DATES: We must receive your comments by March 28, 2007.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation

Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM370, 1601 Lind Avenue, SW., Renton, Washington, 98057-3356. You may deliver two copies to the Transport Airplane Directorate at the above address. *You must mark your comments:* Docket No. NM370. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2011; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On June 4, 2002, Dassault Aviation, 9 rond Point des Champs Elysees, 75008, Paris, France, applied for FAA type certificate for its new Model Falcon 7X airplane. The Dassault Model Falcon 7X airplane is a 19 passenger transport category airplane powered by three aft mounted Pratt & Whitney PW307A high

bypass ratio turbofan engines. Maximum takeoff weight will be 63,700 pounds, and maximum certified altitude will be 51,000 feet with a range of 5,700 nautical miles. The airplane is operated using a fly-by-wire (FBW) primary flight control system. This will be the first application of a FBW primary flight control system in an airplane primarily intended for private/corporate use.

The Dassault Aviation Model Falcon 7X design incorporates equipment that was not envisioned when part 25 was created. This equipment includes side stick controllers, and an electronic flight control system that provides flight envelope protection. Therefore, special conditions are required that provide the level of safety equivalent to that established by the regulations.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Dassault Aviation must show that the Model Falcon 7X airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-108.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model Falcon 7X airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Dassault Model Falcon 7X airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 93-574, the "Noise Control Act of 1972."

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Dassault Falcon 7X airplane will incorporate the following novel or unusual design features:

- Side stick controllers;
- *Electronic flight control system:* lateral-directional and longitudinal stability, low energy awareness,