

Proposed Rules

Federal Register

Vol. 70, No. 225

Wednesday, November 23, 2005

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. 05–012P]

RIN #0583–AD20

Addition of the People's Republic of China To the List of Countries Eligible To Export Processed 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 the People's Republic of China to the list of countries eligible to export processed poultry and poultry products to the United States. Reviews of the People's Republic of China's laws, regulations, and other materials show that its poultry processing system includes requirements equivalent to all provisions in the Poultry Products Inspection Act (PPIA) and its implementing regulations.

FSIS is proposing to allow processed poultry products from the People's Republic of China to be imported into the United States only if they are processed in certified establishments in the People's Republic of China from poultry slaughtered in certified slaughter establishments in other countries eligible to export poultry to the United States. China is not currently eligible to export poultry products to the United States that include birds that were slaughtered in China's domestic establishments. Under this proposed rule, all poultry products exported from the People's Republic of China to the United States will be subject to reinspection at the U.S. ports-of-entry by FSIS inspectors as required by law.

DATES: Comments must be received on or before January 23, 2006.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be

submitted by any of the following methods:

- 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.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions at that site for submitting comments. Electronic mail: fsis.regulationscomments@fsis.usda.gov.

All submissions received must include the Agency name and docket number 05–012P.

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. The comments also will be posted on the Agency's Web site at http://www.fsis.usda.gov/regulations_&_policies/2005_Proposed_Rules_Index/index.asp.

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

SUPPLEMENTARY INFORMATION:

Background

FSIS is proposing to amend the Federal poultry products inspection regulations to add the People's Republic of China to the list of countries eligible to export processed poultry and poultry products to the United States.

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 its implementing regulations, poultry products imported into the United States must be produced under standards equivalent to those of the United States for safety, wholesomeness, and labeling accuracy. Section 381.196 of Title 9 of the Code of Federal Regulations (CFR) establishes 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) requires that a foreign country's poultry inspection system include standards equivalent to those of the United States, and that the legal authority for the system and its implementing regulations be determined equivalent to those of the United States. Specifically, a country's regulations must impose requirements equivalent to those of the United States in the following areas: (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.

Section 381.196 also requires that a poultry inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, ensure that those establishments and their poultry products comply with requirements equivalent to the provisions of the PPIA and the poultry product inspection regulations. Foreign country authorities must be able to ensure that all certifications required under Section 381.196 of the poultry product inspection regulations (Imported Products) can be relied upon before approval to export poultry products to the United States may be granted. Besides relying on its initial determination of a country's eligibility and performing ongoing reviews to ensure that products shipped to the United States are safe, wholesome and properly labeled and packaged, FSIS randomly samples imported poultry and poultry products for reinspection as 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 products 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 operate 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_&_policies/equivalence_process/index.asp.

Evaluation of the People's Republic of China Inspection System

In response to a request from the People's Republic of China for approval to export processed poultry and poultry products to the United States, FSIS conducted a review of the People's Republic of China poultry processing inspection system to determine if it was equivalent to the U.S. poultry inspection system. First, FSIS compared the People's Republic of China's poultry inspection laws and regulations with U.S. requirements. The study concluded that the requirements contained in the People's Republic of China's poultry inspection laws and regulations are equivalent to those mandated by the PPIA and implementing regulations. FSIS then conducted an on-site review of the People's Republic of China poultry processing inspection system in operation. The FSIS review team concluded that the People's Republic of China's implementation of poultry processing standards and procedures was equivalent to those of the United States. The full report on People's Republic of China can be found on the FSIS Web site at http://www.fsis.usda.gov/regulations/foreign_audit_reports/index.asp.

FSIS is proposing to allow processed poultry products from the People's Republic of China to be imported into the United States only if they are processed in certified establishments in the People's Republic of China from poultry slaughtered in certified slaughter establishments in other

countries eligible to export poultry to the United States. China is not currently eligible to export poultry products to the United States that were slaughtered in China's domestic establishments, and this rulemaking will not change its eligibility to do so.

If this proposed rule is adopted, all poultry products exported to the United States from the People's Republic of China will be subject to reinspection at the ports-of-entry for transportation damage, labeling, proper certification, general condition, and accurate count. Other types of inspection will also be conducted, including examining the product for defects and performing laboratory analyses that will detect chemical residues on the product or determine whether the product is microbiologically contaminated.

Products that pass reinspection will be stamped with the official 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.

Accordingly, FSIS is proposing to amend § 381.196 of the Federal poultry products inspection regulations to add the People's Republic of China as a country from which processed poultry and poultry products may be eligible for import into the United States. As a country eligible to export processed poultry products to the United States, the government of the People's Republic of China would certify to FSIS those establishments wishing to export such products to the U.S. and operating according to U.S. requirements. FSIS would retain the right to verify that establishments certified by the People's Republic of China government are meeting the U.S. requirements. This would be done through annual on-site reviews of the establishments while they are in operation.

The Agency notes that the Animal and Plant Health Inspection Service of USDA has classified the People's Republic of China as having Avian Influenza. Even if a foreign country is listed in FSIS regulations as eligible to export poultry products, those poultry products must also comply with other U.S. requirements. Before a shipment of processed poultry or poultry products may be presented for re-inspection at the port-of entry by FSIS, it must have first met the requirements of both the U.S. Customs Service and APHIS. APHIS is responsible for keeping foreign animal diseases out of the United States. Under Title 9, part 94 of its regulations (9 CFR part 94), APHIS sets restrictions on the importation of any fresh, frozen, and chilled poultry, poultry products,

and edible products from countries in which certain animal diseases exist. Those products that APHIS has restricted from entering the United States because of animal disease conditions in the country of origin will be refused entry before reaching an FSIS import inspection facility.

FSIS and APHIS work closely to ensure that poultry and poultry products imported into the United States comply with the regulatory requirements of both agencies. In 1985, FSIS and APHIS signed a memorandum of understanding (MOU) in which both agencies agreed to cooperate in meeting their respective needs relative to information exchange of disease surveillance, diagnostic testing, investigations, tracebacks, and animal and public health emergencies to achieve their related objectives of reducing disease of animal and public health concern, and of providing a wholesome and economical food supply. The MOU is updated periodically to ensure that it addresses areas of importance to both agencies. In accord with this MOU, FSIS and APHIS established procedures for communication between the two agencies regarding the inspection, handling, and disposition of imported poultry products. APHIS and FSIS communicate regularly to ensure that the products APHIS has restricted from entering the United States because of animal disease concerns are not imported into the United States.

Economic Impact Analysis

There are 25 establishments in the People's Republic of China that will be exporting product to the U.S. if this proposal is adopted. The establishments will export shelf stable cooked poultry products. U.S. imports from these establishments are expected to total less than 2,500,000 pounds per year.

U.S. firms export large amounts of poultry and poultry products to the People's Republic of China. Table A reflects U.S. exports of poultry and poultry products to the People's Republic of China for the years 1998–2003.

Adoption of this proposed rule will open trade between the U.S. and the People's Republic of China in poultry products. The impact of this proposed rule on U.S. consumers is voluntary in that consumers will not be required to purchase poultry products produced and processed in the People's Republic of China, although they may choose to do so. Expected benefits from this type of proposed rule will accrue primarily to consumers in the form of lower prices. The volume of trade stimulated

by this proposed rule, however, will likely be so small as to have little effect on supply and prices. Consumers, apart from any change in prices, will benefit from increased choices in the marketplace.

The costs of this rule will accrue primarily to producers in the form of greater competition from the People's Republic of China. Again, it must be noted that the volume of trade stimulated by this rule will likely be

small and have little effect on supply and prices. Nonetheless, it is possible that U.S. firms that produce products that will compete with the People's Republic of China imports could face short-run difficulty. However, in the long run, such firms will likely adjust their product mix and be able to compete effectively.

The most significant effects of this proposed rule will likely come through efficiency gains. Products will only be

imported from the People's Republic of China if the People's Republic of China establishment can produce the products more efficiently than their U.S. counterparts. Then, U.S. firms will have the incentive to specialize in the production of products in which they are relatively more efficient. In the long run, this improved efficiency will make U.S. producers more competitive both domestically and internationally.

TABLE A.—U.S. EXPORTS OF POULTRY PRODUCTS TO THE PEOPLE'S REPUBLIC OF CHINA, 1998–2003

[Data shown in metric tons]

Product	1998	1999	2000	2001	2002	2003
Poultry Meats	41493	61948.9	64787.2	62413.8	86871.4	136494.9
Chickens, Fr/Froz	39007.7	58762.5	61181.2	48786.6	70670.3	129617.8
Poultry, Misc	18391.9	15603.1	16204.1	19110.2	13962.8	47911.3
Poultry Meats, Prep	46.6	1518.1	1860.9	8562.6	8831.4	3796.6
Turkeys, Fr/Froz	2437.5	1624.7	1624	4764.1	6986.2	2236.6
Other Poultry Fr/Frz	1.2	43.6	121.2	300.4	383.5	843.9

Effect on Small Entities

The Administrator, FSIS, 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 the People's Republic of China to the list of countries eligible to export Poultry products into the United States. Once the People's Republic of China begins to export poultry products into the United States, the volume of cooked poultry products available in the U.S. market will likely increase by approximately 2,500,000 pounds per year. However, this small volume of trade is unlikely to impact the supply and prices of these products. Therefore, the proposed action should have no significant impact on small entities that produce these types of products domestically.

Paperwork Requirements

No new paperwork requirements are associated with this proposed rule. Foreign countries wanting to export poultry products to the United States are required to provide information to FSIS certifying that its inspection system provides standards equivalent to those of the United States and that the legal authority for the system and its implementing regulations are equivalent to those of the United States before they may start exporting such product to the United States. FSIS collects this information one time only. FSIS gave the People's Republic of China questionnaires asking for detailed information about the country's inspection practices and procedures to

assist the country in organizing its materials. This information collection was approved under OMB number #0583-0094. The proposed rule contains no other paperwork requirements.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. It has been determined to be not significant for purposes of E.O. 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

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.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that this proposed rule comes to the attention of the public—including minorities, women, and persons with disabilities—FSIS will announce it online through the FSIS Web page located at <http://www.fsis.usda.gov>.

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, FSIS 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 broader and more diverse audience.

In addition, FSIS offers an electronic mail subscription service that provides an automatic and customized notification when popular pages are updated, included **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 in 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 accounts.

List of Subjects 9 CFR Part 381

Imported Poultry Products.

For the reasons set out in the preamble, 9 CFR part 381 is proposed to be amended 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 2.18, 2.53.

§ 381.196 [Amended]

2. Section 381.196 would be amended by adding “People’s Republic of China 2” in alphabetical order to the list of countries in paragraph (b).

Done at Washington, DC on: November 17, 2005.

Barbara J. Masters,
Administrator.

[FR Doc. 05–23123 Filed 11–22–05; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20836; Directorate Identifier 2005–NM–028–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–200 and 727–200F Series Airplanes; 737–200, 737–200C, 737–300, and 737–400 Series Airplanes; 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP Series Airplanes; 757–200 and 757–200PF Series Airplanes; and 767–200 and 767–300 Series Airplanes

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM. The NPRM proposed the adoption of a new airworthiness directive (AD) for certain Boeing transport category airplanes. That NPRM invites comments concerning the proposed requirements for replacing any insulation blanket constructed of

polyethyleneterephthalate (PET) film, ORCON Orcofilm® AN–26 (hereafter “AN–26”), with a new insulation blanket. This reopening of the comment period is necessary to provide additional opportunity for public comment on the proposed requirements of that NPRM.

DATES: We must receive comments on this proposed AD by February 21, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.

- Fax: (202) 493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sue Rosanske, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6448; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD for certain Boeing Model 727–200 and 727–200F series airplanes; 737–200, 737–200C, 737–300, and 737–400 series airplanes; 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP series airplanes; 757–200 and 757–200PF series airplanes; and 767–200 and 767–300

series airplanes. The NPRM was published in the **Federal Register** on June 6, 2005 (70 FR 32738). The NPRM proposed to require replacing any insulation blanket constructed of AN–26 with a new insulation blanket. The NPRM action invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD.

Actions Since NPRM Was Issued

Since we issued the NPRM, we have received many comments. Most commenters express concerns about the unavailability of appropriate service information and the limited number of compliance methods. In addition, several commenters suggest alternative methods of compliance, but do not provide any specific details.

It is our intent to address the identified unsafe condition in a timely manner, with minimum disruption to industry, and maximum flexibility in methods of compliance. We encourage interested parties to continue to evaluate the proposal and to submit additional comments with more specific details concerning issues that the FAA may need to evaluate before finalizing its decision of the proposal. We have determined that such input may be beneficial before adoption of a final rule. As a result, we have decided to reopen the comment period for 90 days to receive additional comments.

No part of the regulatory information has been changed; therefore, the NPRM is not republished in the **Federal Register**.

Comments Due Date

We must receive comments on this AD action by February 21, 2006.

Issued in Renton, Washington, on November 10, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 05–23153 Filed 11–22–05; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 145 and 147

RIN 3038–AC05

Alternative Market Risk and Credit Risk Capital Charges for Futures Commission Merchants and Specified Foreign Currency Forward and Inventory Capital Charges

AGENCY: Commodity Futures Trading Commission.