

Dated: October 15, 2007.

**Michael Chertoff,**

*Secretary.*

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 381

[Docket No. FSIS-2007-0024]

RIN 0583-AD25

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

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is adding 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.

With this final rule, poultry and poultry products processed in certified Chilean establishments may be exported to the United States. All such products will be subject to reinspection at United States ports-of-entry by FSIS inspectors.

**DATES:** *Effective Dates:* December 3, 2007.

**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 amending 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).

##### 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\\_&\\_policies/equivalence\\_process/index.asp](http://www.fsis.usda.gov/regulations_&_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 an on-site review of Chile's poultry slaughter inspection system in operation from August 9 through 18, 2005. The FSIS review team concluded that, as implemented, Chile's poultry slaughter standards and procedures are equivalent to those of the United States. As a result, FSIS published a proposed rule (FSIS-2006-0030) in the **Federal Register** of February 26, 2007 (72 FR 8293-8296), that would add Chile to the list of countries eligible to export poultry and poultry products to the United States.

One comment to the proposed rule noted a deficiency that FSIS had found in its 2005 onsite audit of Chile's inspection system—that Chile was not conducting species verification testing as required—and questioned how, given that deficiency, FSIS could find Chile's system equivalent. On May 10, 2007, FSIS replied to this question through a **Federal Register** document (FSIS-2007-0016) providing **SUPPLEMENTARY INFORMATION** and re-opening the comment period for the proposed rule (72 FR 26567) so that the public could comment on the new information made available, with comments to be received by May 25, 2007. In this **Federal Register** document, FSIS noted that Chile had immediately committed to remedying the deficiency and had documented the steps that it had taken to implement species verification testing. FSIS evaluated the documentation provided by Chile and became confident that Chile has sufficient controls in place to ensure that species verification testing is being performed. FSIS documentation of the materials submitted by Chile to satisfy the species verification requirement for poultry can be found online as an addendum to the 2005 FSIS audit report on Chile's poultry inspection system at [http://www.fsis.usda.gov/regulations\\_&\\_policies/Foreign\\_Audit\\_Reports/index.asp](http://www.fsis.usda.gov/regulations_&_policies/Foreign_Audit_Reports/index.asp).

#### Comments on the Proposal

The Agency received a total of 13 comments on the proposed rule. All comments received were in response to the proposed rule published February 26, 2007. FSIS did not receive any additional comments to the May 10, 2007, **Federal Register** document that re-opened the comment period on the proposal.

All comments supported the proposal except one that questioned whether FSIS import reinspection would be adequate to prevent public health threats from entering the United States from Chile.

With this final rule in effect, any poultry and poultry products exported

to the United States from Chile will be subject to reinspection by FSIS 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 reinspection will be stamped with the official U.S. 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. Thus, FSIS import reinspection is more than adequate to prevent products that present a public health threat from entering the U.S.

Furthermore, the FSIS process to determine the equivalence of a country's meat or poultry inspection system is independent from any animal health status determination that may be made for the same country by USDA's Animal and Plant Health Inspection Service (APHIS). The APHIS declaration regarding animal health or disease status, however, also determines whether a country can export product to the U.S., as well as the types of products that would be eligible. Even though a foreign country is listed in FSIS regulations as eligible to export poultry and poultry products to the U.S., those poultry products must also comply with all other U.S. requirements before entry. Before a shipment of poultry or poultry products may be presented for reinspection at the port-of entry by FSIS, it must have first met the requirements of both U.S. Customs and Border Protection and APHIS.

APHIS is responsible for keeping foreign animal diseases out of the United States. Under Title 9, Part 94 of the Code of Federal Regulations (9 CFR Part 94), APHIS sets forth restrictions on the importation of any fresh, frozen, and chilled meat and meat products, poultry and poultry products, and edible products from countries in which certain animal diseases exist. APHIS can independently restrict an eligibility listing through a "regionalization" process (9 CFR Part 92—Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions). 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 together to ensure that all 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, trace backs, and animal and public health emergencies to achieve their related objectives of reducing the spread of animal diseases, 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 meat and poultry products. APHIS and FSIS communicate regularly to ensure that products APHIS has restricted from entering the United States because of animal disease concerns are not imported into the United States.

FSIS notes that APHIS has found no current evidence of animal disease of consequence in Chile. For all these reasons, FSIS believes that sufficient controls are in place to ensure that poultry and poultry products processed in Chile will not pose a risk in the U.S.

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 and will verify that Chile's inspection system meets U.S. requirements through annual audits. Therefore, based on its review of the Chilean system and its consideration of the comments on the proposal, FSIS concludes that Chile's poultry inspection system is equivalent to that of the U.S., and therefore, Chilean poultry establishments that have been certified by the Chilean government are eligible to begin exporting product to the U.S.

#### Executive Order 12866 and Regulatory Flexibility Act

This final 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. This rulemaking will 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 (deboned) 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.

Expected benefits from this type of final rule will accrue primarily to consumers in the form of lower prices. The small volume of trade stimulated by this final 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 will be very small, likely having little discernible effect on supply and prices.

General benefits will include increased trade with Chile and the availability to U.S. consumers of a greater quantity of poultry and poultry products. Both nations will 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 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 this rulemaking.

The major source of uncertainty in estimating the effects of this final 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 final rule.

### Effect on Small Entities

This final 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 final rule will 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 will be very small and will have minimal effect on poultry and poultry products supplies and prices.

### Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this final 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 final 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 final rule contains no other paperwork requirements.

### E-Government Act Compliance

The Food Safety and Inspection Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### 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 online through the FSIS Web page located at [http://www.fsis.usda.gov/regulations\\_&\\_policies/2007\\_Interim\\_&\\_Final\\_Rules\\_Index/index.asp](http://www.fsis.usda.gov/regulations_&_policies/2007_Interim_&_Final_Rules_Index/index.asp).

The Regulations.gov Web site is the central online rulemaking portal of the United States Government. It is 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 will also 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 is also 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/](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 accounts.

#### List of Subjects in 9 CFR Part 381

Imported Products.

■ For the reasons set out in the preamble, FSIS is amending 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(b) [Amended]

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

Done at Washington, DC, on October 29, 2007.

**Alfred V. Alamanza,**  
Administrator.

[FR Doc. E7–21511 Filed 10–31–07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2007–0076; Directorate Identifier 2007–NM–241–AD; Amendment 39–15246; AD 2007–22–10]

RIN 2120–AA64

#### Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During MLG (main landing gear) lubrication, a crack was found visually in the MLG rib 6 aft bearing forward lug on one A330 in service aircraft. \* \* \* This condition, if not detected and corrected, could affect the structural integrity of the MLG attachment.

Failure of the forward lug could result in collapse of the MLG upon landing. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective November 16, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of November 16, 2007.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in the AD as of February 15, 2007 (72 FR 4416, January 31, 2007).

We must receive comments on this AD by December 3, 2007.

**ADDRESSES:** You may send comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** (202) 493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- **Hand Delivery:** U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

On January 23, 2007, we issued AD 2007–03–04, Amendment 39–14915 (72 FR 4416, January 31, 2007). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2007–03–04, it has been determined that the previous modification/repair (interference fit bushings) cannot be considered as terminating action to the inspection because of the unknown root cause of the cracking.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency Airworthiness Directive 2007–0247 R1–E, dated September 7, 2007, corrected October 4, 2007 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

During MLG (main landing gear) lubrication, a crack was found visually in the MLG rib 6 aft bearing forward lug on one A330 in service aircraft. The crack had extended through the entire thickness of the forward lug at approximately the 4 o'clock position (when looking forward). Despite intensive investigation so far, Airbus has not been able to determine the root cause of this single event. This condition, if not detected and corrected, could affect the structural integrity of the MLG attachment.

Emergency Airworthiness Directive (EAD) 2006–0364–E [which corresponds to FAA AD 2007–03–04] was issued to require repetitive detailed visual inspections of the LH (left hand) and RH (right hand) wing MLG rib 6