Proposed Rules

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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–2007–0048]

RIN 0583–AC83

Classes of Poultry

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Food Safety and Inspection Service (FSIS) is providing new information on, and re-proposing the definition and standard for, ''roaster'' and ''roasting chicken.'' FSIS proposed this definition and standard in its September 29, 2003, proposed rule to amend the definitions and standards for the official U.S. classes of poultry. After the proposed rule was published, FSIS received from the U.S. Department of Agriculture's (USDA's) Agricultural Marketing Service (AMS) new information that would affect the definition and standard for ''roaster'' or ''roasting chicken.'' FSIS has tentatively concluded that it should re-propose this definition and standard but no others in the proposed rule.

DATES: Comments must be received on or before August 12, 2009.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by either 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*. Follow the online instructions at that site for submitting comments.
- *Mail, including floppy disks or CD-ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, USDA, FSIS, Room 2–2127 George Washington Carver Center, 5601 Sunnyside Avenue, Beltsville, MD 20705.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2007–0048. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Director, FSIS Labeling and Program Delivery Division, *Phone:* (301) 504–0878, *Fax:* (301) 504–0872.

SUPPLEMENTARY INFORMATION:

Background

The Poultry Products Inspection Act (PPIA) prohibits the distribution of poultry products that are adulterated or misbranded (21 U.S.C. 458). The PPIA also authorizes the Secretary of Agriculture to prescribe, among other things, definitions and standards of identity or composition for poultry products whenever the Secretary determines that such action is necessary for the protection of the public (21 U.S.C. 457(b)). Poultry classes were established by USDA to aid in labeling poultry. The classes were based primarily on the age and sex of the bird. FSIS uses poultry class standards to ensure that poultry products are labeled in a truthful and non-misleading manner.

Before publishing the 2003 proposal, FSIS reviewed the poultry class definitions with AMS's Poultry Programs, and both agencies discussed the definitions and standards with members of the poultry industry and others knowledgeable about poultry genetics and breeding. After examining poultry production methods and reviewing the poultry classes defined in 9 CFR 381.170, FSIS and AMS determined that several poultry class definitions and standards did not reflect poultry characteristics or industry practices. As a result, FSIS and AMS determined that the poultry class definitions needed to be revised to more accurately and clearly describe poultry being marketed and to ensure that the labels for poultry products are not false or misleading.

FSIS proposed to lower the age definitions for six classes of poultry (68 FR 55902), including reducing the age of ''roaster'' or ''roasting chicken'' from 3 to 5 months to less than 12 weeks (*see* 9 CFR 381.170(a)(1)(iv)). FSIS also solicited comments regarding the merit of establishing ready-to-cook (RTC) carcass weights or maximums for poultry classes (including the ''roaster'' or ''roasting chicken''). FSIS did not propose to include a RTC carcass weight in the ''roaster'' or ''roasting chicken'' class definition. FSIS asked commenters to provide a factual basis for or against the establishment of weight requirements.

After the comment period closed, AMS provided FSIS with data that suggest that FSIS should include a RTC carcass weight in the definition of ''roaster'' and change the proposed weeks of age in that definition. AMS surveyed the segment of the industry that routinely produces ''roasters'' and obtained data on target weights from 8 of the 13 ''roaster'' suppliers. Based on these data, AMS has recommended that a ''roaster'' be defined as a chicken from 8 to 12 weeks of age and with a RTC carcass weight of 5 pounds or more. These AMS survey data are available for public inspection in the FSIS Docket Clerk's Office, USDA, FSIS, Room 2–2127 George Washington Carver Center, 5601 Sunnyside Avenue, Beltsville, MD 20705, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

Comments on Establishing Maximum Weights and the Age for the ''Roaster'' Class

Several commenters from industry suggested a ''roaster'' be a chicken that is between the age of 60 days and 85 days at the time of slaughter from a flock that has an average live weight of 7.75 pounds or more. A commenter from industry suggested age definitions for a ''roaster'' should be between 9 and 12 weeks of age at the time of processing. This commenter also recommended that ''roasters'' come from a flock with an average daily flock weight of 8 pounds, at minimum. Also, two commenters from industry were concerned that the proposed age definition of ''less than 12 weeks'' will allow large broilers to be classified as ''roasters''. Another industry commenter

recommended allowing the roaster class to include broilers, as long as the product meets weight requirements for roasters. One commenter opposed including RTC carcass weights in the definitions and standards. This commenter stated that including RTC carcass weights will lead to further abuse of chickens.

On the basis of AMS data, FSIS has tentatively concluded that a ''roaster'' or ''roasting chicken'' should be defined as a chicken from 8–12 weeks of age. Most of the comments supported use of this age range for roasters. By including the RTC carcass weight for this class of poultry, the standard and definition should effectively differentiate ''roasters'' and ''broilers''.

FSIS has tentatively concluded that a ''roaster'' or ''roasting chicken'' should be defined as a chicken with an RTC carcass weight of 5 pounds or more, based on recent survey information from AMS. In addition, FSIS has tentatively concluded that RTC carcass weight, instead of average live weight, is necessary in the class standard and definition so that FSIS can verify the appropriate use of the term ''roaster'' or ''roasting chicken'' on product labels.

Executive Orders 12866 and 12988, Regulatory Flexibility Act, and Paperwork Requirements

This proposed rule has been determined to be not significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

The changes FSIS is proposing to the definition of ''roaster'' or ''roasting chicken'' do not affect the Executive Order 12866 analysis (68 FR 55903) or the Regulatory Flexibility Analysis (68 FR 55904). Similarly, the changes do not affect paperwork requirements (68 FR 55904) or review of the rule under Executive Order 12988.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that 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/regulations_directives_notices/index.asp*.

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, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*.

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

Food grades and standards, Poultry and poultry products.

For the reasons set forth in the preamble, FSIS proposed to further amend 9 CFR Part 381, as previously proposed to be amended on September 29, 2003 (68 FR 55902):

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

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

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

§ 381.170 Standards for kinds and classes, and for cuts of raw poultry.

2. Section 381.170 would be amended by revising paragraph (a)(1)(iii) to read as follows:

§ 381.170 Standards for kinds and classes, and for cuts of raw poultry.

(a) * * *

(1) * * *

(iii) *Roaster or roasting chicken.* A ''roaster'' or ''roasting chicken'' is a young chicken from 8 to 12 weeks of age, of either sex, with a ready-to-cook carcass weight of 5 pounds or more, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that is somewhat less flexible than that of a broiler or fryer.

* * * * *

Done at Washington, DC, on July 7, 2009.

Alfred V. Almanza,

Administrator.

[FR Doc. E9–16402 Filed 7–10–09; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM408; Notice No. 25–09–04–SC]

Special Conditions: Alenia Model C–27J Airplane; Liquid Oxygen System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Alenia Model C–27J airplane. This airplane will have novel or unusual design features when compared to the state of technology described in the airworthiness standards for transport-category airplanes. These design features include a liquid-oxygen (LOX) system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for oxygen systems that use liquid oxygen. 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.

DATES: We must receive your comments by August 12, 2009.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, *Attn:* Rules Docket (ANM–113), Docket No. NM408, 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. NM408. 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: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1357, facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: