

Proposed Rules

Federal Register

Vol. 69, No. 159

Wednesday, August 18, 2004

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 Parts 327 and 381

[Docket No. 03-033P]

RIN 0583-AD08

Frequency of Foreign Inspection System Supervisory Visits to Certified Foreign Establishments

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: FSIS is proposing to amend its regulations to change the required frequency of foreign inspection system supervisory visits to certified foreign establishments so as to bring FSIS import requirements into agreement with its requirements for domestic establishments. FSIS is proposing to delete the current requirement that supervisory visits take place "not less frequent[ly] than one such visit per month." In its place, FSIS is proposing to require foreign inspection systems to make "periodic supervisory visits" to certified establishments in order to ensure that such establishments continue to meet FSIS requirements for certification to export meat and poultry to the United States.

DATES: Comments must be received on or before October 18, 2004. FSIS invites interested persons to submit comments on this notice.

ADDRESSES: 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.

All submissions received must include the Agency name and docket number 03-033P.

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/OPPDE/rdad/FRDockets.htm>.

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

SUPPLEMENTARY INFORMATION: The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) place restrictions on imports into the United States that are designed to protect public health. Meat and poultry products can only be exported to the United States from countries with inspection systems that are equivalent to that of the United States, and only if the exported products are safe, otherwise unadulterated, and properly labeled. To ensure that these requirements are met, the Agency evaluates the inspection systems, laws, and regulations of foreign countries to verify that they are equivalent to those of the United States. FSIS conducts audits at least annually to ensure that foreign inspection systems continue to be equivalent. It also re-inspects products offered for import into the United States.

Foreign countries found by FSIS to have equivalent inspection systems are eligible to export products to the United States. It is then the responsibility of the eligible country to certify establishments as meeting the requirements for exporting meat or poultry products to this country and to ensure that products from these establishments are safe, wholesome, and not misbranded.

FSIS applies a number of measures in evaluating a foreign country's inspection system. Among these measures has been a very specific requirement that foreign inspection systems schedule supervisory visits to certified establishments "not less frequent[ly] than one such visit per month." FSIS has noted that this requirement results in more frequent establishment visits than are required by the parallel component of the domestic inspection system.

In the United States, FSIS conducts supervisory visits to USDA-inspected

establishments on a regular basis but there is no specific requirement that these visits be conducted monthly. These supervisory visits, termed In-Plant Performance System Reviews, are conducted at federally-inspected establishments as needed to assess the performance of inspection personnel. In-Plant Performance System Reviews help to verify that inspection personnel are performing their regulatory responsibilities in a manner consistent with the governing laws, regulations, and policies. These visits by FSIS supervisors are, however, only one component of inspection supervision. Supervisory contacts with inspection personnel assigned to establishments are also maintained by frequent, sometimes daily, telephone and e-mail communications, by meetings held to correlate inspection activities across an FSIS inspection region (known as a Circuit or District), and by management reports that summarize inspection activities in every federally-inspected establishment.

Several countries that export meat or poultry to the United States have requested that FSIS permit them to schedule their supervisory visits in a manner similar to what is done in the United States. FSIS has not been able to grant these requests, even in circumstances where to do so would be reasonable and equitable, because the current regulatory requirements for foreign supervisory visits are written in a manner that gives the Agency no authority to grant exceptions.

Changing the FSIS regulatory requirement for frequency of foreign supervisory visits will give eligible countries the flexibility to structure their own supervisory program as they deem necessary so as to ensure that establishments continue to meet the requirements for certification to export to the United States. With its routine annual audits, FSIS verifies that equivalent sanitary measures are maintained, and that the regulatory controls of a foreign inspection system are effective. If audit findings indicate that a foreign country's supervisory program is not providing adequate regulatory oversight of certified establishments so as to ensure compliance with U.S. import requirements, FSIS takes appropriate action, including preventing U.S. entry of products from any non-complying

establishment until inadequacies are resolved.

Harmonizing FSIS import requirements with domestic practices would meet U.S. obligations as a signatory to the World Trade Organization (WTO) "Agreement on the Application of Sanitary and Phytosanitary Measures"—commonly called the SPS Agreement. Article 2.3 of the SPS Agreement states that WTO "Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members. Sanitary and phytosanitary measures shall not be applied in a manner which would constitute a disguised restriction on international trade." The effect of Article 2.3 is that FSIS, acting as a regulatory agency of the United States, may not impose import requirements on inspection systems or establishments in an exporting country that are more stringent than those applied domestically.

Consequently, FSIS proposes to amend 9 CFR 327.2(a)(2)(iv)(A) and 9 CFR 381.196(a)(2)(iv)(A) to provide that supervisory visits by a representative of the foreign inspection system are to occur at periodic intervals to ensure that establishments and products meet the requirements for certification to the United States on an ongoing basis. This change, if adopted, will make the Agency's requirements for foreign inspection programs as consistent as possible with the FSIS domestic inspection program. It will also provide foreign countries with flexibility in structuring their programs.

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).

Economic Impact Analysis

This proposed rule is expected to have no economic impact.

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).

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.

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>.

The Regulations.gov website 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 website 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 much broader, more diverse audience.

List of Subjects

9 CFR Part 327

Imported products.

9 CFR Part 381

Imported poultry products, poultry inspection.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR, parts 327 and 381, as follows:

PART 327—IMPORTED PRODUCTS

1. The authority for part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 327.2(a)(2)(iv)(A) would be amended to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

- (a) * * *
- (2) * * *
- (iv) * * *

(A) Periodic supervisory visits by a representative of the foreign inspection system to each establishment certified in accordance with paragraph (a)(3) of this section to ensure that requirements referred to in paragraphs (a)(2)(ii)(A) through (H) of this section are being met: *Provided*, That such visits are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States;

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PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority 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.

Subpart T—Imported Poultry Products

4. Section 381.196(a)(2)(iv)(A) would be amended to read as follows:

§ 381.196 Eligibility of foreign countries for importation of products into the United States.

- (a) * * *
- (2) * * *
- (iv) * * *

(A) Periodic supervisory visits by a representative of the foreign inspection system to each establishment certified in accordance with paragraph (a)(3) of this section to ensure that requirements referred to in paragraphs (a)(2)(ii)(A) through (H) of this section are being met: *Provided*, That such visits are not required with respect to any

establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States;

* * * * *

Done in Washington, DC, on August 12, 2004.

Barbara J. Masters,
Acting Administrator.

[FR Doc. 04-18889 Filed 8-17-04; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-ANE-43-AD]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT8D-209, -217, -217A, -217C, and -219 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Pratt & Whitney (PW) JT8D-209, -217, -217A, -217C, and -219 turbofan engines. That AD currently requires revisions to the engine manufacturer's time limits section (TLS) to include enhanced inspection of selected critical life-limited parts at each piece-part opportunity. This proposed AD would modify the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. An FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. We are proposing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by October 18, 2004.

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

- *By mail:* Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-ANE-43-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

- *By fax:* (781) 238-7055.

- *By e-mail:* 9-ane-adcomment@faa.gov.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT:

Keith Lardie, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7189, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. 98-ANE-43-AD" in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You may get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Discussion

On June 18, 2002, the FAA issued airworthiness directive (AD) 2002-13-

09, Amendment 39-12797 (67 FR 44527, July 3, 2002), to require revisions to the TLS of the manufacturer's Engine Manuals (EMs) for these engines to include required enhanced inspection of selected critical life-limited parts at each piece-part opportunity.

New Inspection Procedures

Since the issuance of that AD, an FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for additional mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. This proposal would modify the time limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate the additional inspection requirements.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT8D-209, -217, -217A, -217C, and -219 turbofan engines of the same type design, the proposed AD would supersede AD 2002-13-09 to add additional critical life-limited parts for enhanced inspection at each piece-part opportunity.

Costs of Compliance

There are about 2,345 Pratt & Whitney JT8D-209, -217, -217A, -217C, and -219 turbofan engines of the affected design in the worldwide fleet. We estimate that 1,143 engines installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take about 8 work hours per engine to perform the proposed inspections, and that the average labor rate is \$65 per work hour. Since this is an added inspection requirement, included as part of the normal maintenance cycle, no additional part costs are involved. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be \$594,360.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and