

August 15, 2017

Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
Patriots Plaza 3
1400 Independence Avenue SW
Mailstop 3782, Room 8-163A
Washington, DC 20250-3700

RE: Docket No. FSIS-2016-0002

Transmitted via regulations.gov

Dear Sir or Madam:

On behalf of the nonprofit advocacy organization Food & Water Watch, I welcome this opportunity to offer these comments in opposition to Docket No. FSIS-2016-0002, "Eligibility of the People's Republic of China (PRC) to Export to the United States Poultry Products Slaughtered in the PRC" that was published in the June 16, 2017 Federal Register (82 FR 27625-27629).

Introduction

"Far too much of what China is flooding our grocery stores and drug emporia with is pure poison. That's why Chinese foods and drugs always rank #1 of those flagged down at the border or recalled by both the U.S. Food and Drug Administration and the European Food Safety Authority." Peter W. Navarro and Greg W. Autry, *Death by China: Confronting the Dragon – A Global Call to Action*, 2011

"We used to have victories, but we don't have them. When was the last time anybody saw us beating, let's say, China in a trade deal? They kill us." Donald J. Trump, June 16, 2015

"I'm also very much of a germophobe, by the way. Believe me." Donald J. Trump, January 11, 2017

In light of these recent assertions made by both the President and his White House trade advisor, we are perplexed why the Trump Administration has decided to put U.S. consumers at risk with this ill-conceived and contrived proposition to allow the PRC to export its own poultry

to the U.S. Food & Water Watch has been following this issue from its inception in 2004. We have reviewed thousands of pages of documents that we have received from Freedom of Information Act requests; we filed a petition to revoke the PRC's equivalency determination for its poultry products processing inspection system;¹ we have read all of the audit reports published by the Food Safety and Inspection Service (FSIS); and we have tracked the countless news accounts over the past thirteen years of the scores of food safety scandals that have plagued that country and consumers worldwide.

The FSIS equivalency determination process is a very powerful tool. Unlike the Food and Drug Administration, FSIS is able to restrict access to the U.S. market to those countries that first have to prove that they can meet our food safety and inspection standards for meat, poultry, egg products and siluriformes fish. While the FSIS procedure for determining equivalency is supposed to be based on an evaluation of the exporting country's food safety system in order to gain market access, in this instance, we find that FSIS has succumbed to pressures that have subverted the process. That is why this equivalency determination proposed rule needs to be withdrawn and the April 24, 2006 equivalency determination for poultry processing inspection needs to be revoked.²

The Beef for Poultry Swap

The 2006 rule on poultry processing and the current proposed rule are a direct result of the negotiations to re-open beef exports to the PRC that were stopped as a result of the discovery of a cow infected with bovine spongiform encephalopathy (BSE) in Washington State in December 2003.³ When the U.S. worked to re-open beef trade with the PRC, the PRC responded that it wanted to start exporting poultry products to the U.S.⁴ Even though there were assurances by USDA officials of a rapid equivalency determination process,⁵ the evaluation for the PRC poultry inspection system has taken over a decade to complete because it has been found to be deficient. When the Trump Administration announced the "100-day plan" to expedite the review of pending trade issues, the reopening of beef exports to the PRC was inextricably linked to the finalization of rulemaking to permit the PRC to export its own poultry products to the U.S.⁶ Almost contemporaneously with the announcement that the PRC would resume importing U.S. beef under the strictest of protocols, the Trump Administration announced that it would move forward with a proposed rule that would permit the PRC to

¹ See https://www.fsis.usda.gov/wps/wcm/connect/c3a47213-4b40-4507-9348-530656c4140f/Petition_Food_Water_Watch.pdf?MOD=AJPERES

² 71 FR 20867-20871

³ See <http://www.cnn.com/2003/BUSINESS/12/24/madcow.reax/>

⁴ See <http://www.china-embassy.org/eng/xw/t245931.htm>

⁵ There have been reports that former Under Secretary for Food Safety Elsa Murano promised the PRC that the process would be completed by 2005. She left office in December 2004.

⁶ See <https://www.commerce.gov/news/press-releases/2017/05/joint-release-initial-results-100-day-action-plan-us-china-comprehensive>

export processed products originating from poultry raised in the PRC.⁷ What was truly remarkable about the announcement was the fact that the Secretary of Commerce Wilbur Ross, and not any credible food safety official at USDA, vouched for the safety of the PRC's poultry products.⁸

While we are still in the comment period on the PRC poultry slaughter inspection equivalency, we are now getting a clear picture of what the much-ballyhooed re-opening of beef exports to PRC really means – not much. Respected beef industry analyst Steve Kay made the following observations:

“Eight U.S. beef packers, one fabricator and one further processor are currently certified to export beef to China. But shipments of a few dozen tonnes won't put even a dent in the U.S. \$2.6 billion that China imports each year from other countries.

Any talk that China could be a U.S. \$100-200 million market for U.S. beef is a fantasy, at least for now.”⁹

In an August 4, 2017 article entitled, “U.S. Beef is Back on China's Shelves – But China Doesn't Care,” this was the reality check:

“The amount of American supplies entering China currently is relatively small because ‘the U.S. produces beef differently from other countries like Australia and Brazil, which do not use some feed additives that are banned by the Chinese government,’ said Rabobank's (Chenjun) Pan.

“That sentiment is in sharp contrast to the unbridled optimism expressed by U.S. officials and industry representatives at a ceremony in Beijing on June 30 celebrating the return of U.S. beef.”¹⁰

So, are we about to lose to the PRC in another lopsided trade deal? Are U.S. consumers supposed to accept potentially unsafe poultry products from the PRC so that we can sell a few U.S. made hamburgers to the PRC? While the shipments of U.S. beef to the PRC will be subject to the strictest U.S. food safety inspection standards and will be required to have detailed country-of-origin recordkeeping, U.S. consumers will be exposed to poultry products from a country that has a weak food safety system with no information as to its origin. We believe

⁷ See <http://www.npr.org/sections/thesalt/2017/05/12/528139468/chinese-chicken-is-headed-to-america-but-its-really-all-about-beef>

⁸ See <http://www.chicagotribune.com/business/national/ct-china-us-trade-agreement-20170511-story.html>

⁹ See <https://www.beefcentral.com/trade/kays-cuts-us-beef-to-china-is-a-trickle/>

¹⁰ <https://www.bloomberg.com/news/articles/2017-08-03/trump-s-vaunted-return-of-u-s-beef-to-china-risks-turning-a-dud>

that we will have been duped again unless this proposed rule is withdrawn and the 2006 rule is revoked.

The PRC's Food Safety Scandals

The PRC has been plagued by egregious food safety scandals that call into question its food safety inspection system. These incidents involve intentional adulteration by food producers and processors. While the national government has recognized this problem and has enacted several revisions to its food safety laws and regulations, the enforcement of those laws and regulations remains weak. In some cases, the PRC has taken action against the victims of these crimes.

The scandals that have occurred in recent years include:

2002 – Shopkeeper poisons food of business rival with rat poison, killing 38 people, mostly school children;¹¹

2003 – Tainted soy milk killed three children;¹²

2004 – Babies starved with protein-short infant formula;¹³

2007 – Melamine-tainted wheat flour imported from the PRC used in pet food sickens thousands of U.S. pets;¹⁴

2007 – Aquacultured-seafood in China contaminated with illegal veterinary drugs;¹⁵

¹¹ See http://www.nytimes.com/2002/09/18/world/man-admits-poisoning-food-in-rival-s-shop-killing-38-in-china.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=249&pgtype=collection

¹² See http://www.nytimes.com/2003/04/09/world/world-briefing-asia-china-milk-kills-3-children.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=248&pgtype=collection

¹³ See http://www.nytimes.com/2004/05/05/world/infants-in-chinese-city-starve-on-protein-short-formula.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=246&pgtype=collection

¹⁴ http://www.nytimes.com/2007/04/24/business/worldbusiness/24pets.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=241&pgtype=collection;
<https://www.fda.gov/AnimalVeterinary/SafetyHealth/ucm129575.htm>

¹⁵ http://www.nytimes.com/2007/12/15/world/asia/15fish.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=169&pgtype=collection

2007 – U.S. Food and Drug Administration begins warning U.S. pet owners against feeding chicken jerky treats produced in China to dogs;¹⁶

2007 – Antifreeze used in the manufacture of toothpaste exported to U.S.¹⁷

2008 – Insecticide-tainted dumplings manufactured in China sickened 175 Japanese consumers;¹⁸

2008 – Melamine-contaminated dairy products led to the hospitalization of 300,000 Chinese babies, six infant deaths and the recall of products in the U.S. imported from the PRC;¹⁹

2008 – Eggs imported from mainland China found contaminated with melamine in Hong Kong;²⁰

2008 – Animal feed contaminated with melamine confiscated by PRC authorities;²¹

2009 – Seventy Chinese consumers sickened by pork contaminated with banned growth accelerator;²²

2009 – Three individuals arrested for selling melamine-contaminated milk powder in the PRC;²³

¹⁶<https://www.fda.gov/animalveterinary/safetyhealth/productsafetyinformation/ucm360951.htm>

¹⁷ See <http://www.nytimes.com/2007/06/02/us/02toothpaste.html>

¹⁸http://www.nytimes.com/2008/02/02/world/asia/02japan.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=164&pgtype=collection&mtrref=undefined&gwh=01AE8B09350A8E22A8CA93D02E51BB9E&gwt=pay

¹⁹ <https://www.forbes.com/sites/yanzhonghuang/2014/07/16/the-2008-milk-scandal-revisited/#7a2dcaa4105>; <https://www.fda.gov/ohrms/dockets/ac/08/briefing/2008-4386b3.pdf>

²⁰See

http://www.nytimes.com/2008/10/27/world/asia/27china.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=118&pgtype=collection

²¹See

http://www.nytimes.com/2008/11/03/world/asia/03china.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=113&pgtype=collection

²² See

http://www.nytimes.com/2009/02/24/world/asia/24pigs.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=89&pgtype=collection

²³ See

http://www.nytimes.com/2009/12/12/world/asia/12milk.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=81&pgtype=collection

2009 – Duck meat dipped in lamb urine sold as mutton;²⁴

2009 – China’s Health Ministry declares food safety to be “grim’;²⁵

2010 – Recycled cooking oil – some recovered in street gutters – focus of new scandal in PRC;²⁶

2010 – Dried peas made to look fresh with illegal food additive in Hunan province;²⁷

2011 – Pork sold as beef after it was dipped in borax;²⁸

2011 – Rice contaminated with cadmium;²⁹

2011 – Arsenic-laced soy sauce;³⁰

2011 – Popcorn and mushrooms treated with fluorescent bleach;³¹

2011 – Bean sprouts tainted with an animal antibiotic;³²

2011 – Counterfeit eggs made with man-made substances;³³

2011 – Watermelons explode when farmers mistakenly applied forchlorfenuron, a growth accelerator;³⁴

²⁴ See <http://www.echinacities.com/expat-corner/Wolf-in-Sheeps-Skin-Fake-and-Contaminated-Foods-in-China>

²⁵ See http://www.nytimes.com/2009/03/03/world/asia/03briefs-CHINAFOOD.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=86&pgtype=collection

²⁶ See http://www.nytimes.com/2010/04/01/world/asia/01shanghai.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=72&pgtype=collection

²⁷ See http://www.chinadaily.com.cn/china/2010-03/31/content_9664992.htm

²⁸ See http://www.nytimes.com/2011/05/08/world/asia/08food.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=61&pgtype=collection

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ See <https://www.theguardian.com/world/2011/may/17/exploding-watermelons-chinese-farming>

2012 – Infant formula contaminated with mercury and aflatoxin;³⁵

2012 – 11,000 German children poisoned by imported frozen strawberries from PRC contaminated with norovirus;³⁶

2012 – Maggots found in pasta exported from the PRC to Italy;³⁷

2012 – Poultry used in Kentucky Fried Chicken restaurants operating in the PRC found to have high levels of antibiotic residues;³⁸

2013—Thousands of dead pigs found floating in Huangpu River near Shanghai;³⁹

2013 – Rat meat sold as lamb meat;⁴⁰

2013 – Rice tainted with cadmium;⁴¹

2013 – China’s farmland found to be polluted;⁴²

³⁵ See https://rendezvous.blogs.nytimes.com/2012/07/23/carcinogen-found-in-chinese-baby-formula/?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=52&pgtype=collection

³⁶ See https://rendezvous.blogs.nytimes.com/2012/10/21/maggots-in-the-pasta-europe-screens-tainted-chinese-food/?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=47&pgtype=collection

³⁷ Ibid.

³⁸ See <http://www.reuters.com/article/us-china-kfc-probe-idUSBRE8BK15R20121221>

³⁹ See https://rendezvous.blogs.nytimes.com/2013/03/13/with-6000-dead-pigs-in-river-troubling-questions-on-food-safety/?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=42&pgtype=collection&_r=0

⁴⁰ See http://www.nytimes.com/2013/05/04/world/asia/rat-meat-sold-as-lamb-in-china-highlights-fears.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=40&pgtype=collection

⁴¹ See http://www.nytimes.com/2013/05/22/world/asia/cadmium-tainted-rice-discovered-in-southern-china.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=39&pgtype=collection

⁴² See <http://www.nytimes.com/2013/12/31/world/asia/good-earth-no-more-soil-pollution-plagues-chinese->

2014 – Chinese reporters physically assaulted for investigating gutter oil scandal;⁴³

2014 - Undercover video reveals that OSI, a U.S.-based poultry processor operating plants in the PRC, sold expired poultry products to KFC and McDonald's restaurants operating in China and processing poultry under unsanitary conditions;⁴⁴

2014 – Fox meat sold as donkey meat in WalMart stores in the PRC;⁴⁵

2014 – Five Chinese consumers die from eating fermented corn flour snacks;⁴⁶

2014 – Petco stops selling jerky pet treats from the PRC;⁴⁷

2014 – Bean sprouts tainted with a banned additive, 6-benzyladenine, sold to wholesale dealers;⁴⁸

countryside.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=21&pgtype=collection and https://www.nytimes.com/2014/04/18/world/asia/one-fifth-of-chinas-farmland-is-polluted-state-report-finds.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=20&pgtype=collection

43 See https://sinosphere.blogs.nytimes.com/2014/05/19/reporters-on-gutter-oil-series-assaulted-peoples-daily-says/?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=18&pgtype=collection

44 See <http://www.npr.org/sections/thesalt/2014/07/28/336081302/fast-food-scandal-revives-chinas-food-safety-anxieties>

45 See https://www.nytimes.com/2014/07/24/business/international/food-safety-in-china-still-faces-big-hurdles.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=13&pgtype=collection

46 See https://sinosphere.blogs.nytimes.com/2014/07/04/5-die-in-food-poisoning-from-southern-chinese-snack/?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=16&pgtype=collection

47 See https://www.nytimes.com/2014/05/21/business/petco-to-stop-selling-treats-made-in-china.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=17&pgtype=collection

48 See <https://sinosphere.blogs.nytimes.com/2014/11/26/bean-sprouts-tainted-with-banned-additive-are-again-found-in->

2015 – Chinese berry products, contaminated with hepatitis-A, recalled in Australia;⁴⁹

2015 – Forty-year old smuggled meat sold in the PRC;⁵⁰

2016 – PRC’s Food and Drug Administration finds 500,000 food safety violations in the first nine months of 2016;⁵¹

2017 – Drug resistant bacteria rampant in Chinese poultry products;⁵²

2017 – Police in Beijing raid a suspected illegal meat distribution ring, part of an ongoing effort to crack down on trade in illegal dog and cat meat.⁵³

Is this enough for the “germophobe-in-chief”? Would he include these products in what can be served at the White House, the Trump Hotel on Pennsylvania Avenue, Mar-a-Lago and Bedminster? These incidents show that the food inspection system in the PRC is far from being adequate even though the PRC has enacted new food safety laws and regulations. China still lacks a food safety culture and USDA should not put U.S. consumers at further risk by allowing imported poultry products from the PRC.

U.S. FDA Import Alerts and Import Refusals

The FDA has issued the highest number of Import Alerts against products from the PRC of any country exporting products regulated by the FDA to the U.S. These are products that are currently prohibited from entering into U.S. commerce from the PRC. Of the 87 Import Alerts, 56 are for human and animal food items for various egregious food safety violations.⁵⁴ In

china/?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=9&pgtype=collection

⁴⁹ See [https://www.nytimes.com/2015/02/17/business/international/china-product-recalled-in-australia-after-hepatitis-](https://www.nytimes.com/2015/02/17/business/international/china-product-recalled-in-australia-after-hepatitis-outbreak.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=8&pgtype=collection)

[outbreak.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=8&pgtype=collection](https://www.nytimes.com/2015/02/17/business/international/china-product-recalled-in-australia-after-hepatitis-outbreak.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=8&pgtype=collection)

⁵⁰ See [https://www.nytimes.com/2015/06/25/world/in-china-stomachs-turn-at-news-of-traders-peddling-40-year-old-](https://www.nytimes.com/2015/06/25/world/in-china-stomachs-turn-at-news-of-traders-peddling-40-year-old-meat.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=5&pgtype=collection)

[meat.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=5&pgtype=collection](https://www.nytimes.com/2015/06/25/world/in-china-stomachs-turn-at-news-of-traders-peddling-40-year-old-meat.html?rref=collection%2Ftimestopic%2FFood%20Safety%20in%20China&action=click&contentCollection=world®ion=stream&module=stream_unit&version=latest&contentPlacement=5&pgtype=collection)

⁵¹ See <http://www.reuters.com/article/us-china-food-safety-idUSKBN14D046>

⁵² See <http://www.scmp.com/news/china/policies-politics/article/2071131/drug-resistant-bacteria-are-rampant-chinas-poultry>

⁵³ See http://news.xinhuanet.com/english/2017-08/14/c_136525263.htm

⁵⁴ https://www.accessdata.fda.gov/cms_ia/country_CN.html

addition to those 56, there is Import Alert 99-32 which lists foreign establishments that have refused to permit FDA inspections and there are ten Chinese food firms on that list.⁵⁵ By looking at the FDA import refusal data base for the period of July 1, 2016 through July 27, 2017, we have found that there have been nearly 400 human food items from the PRC that were rejected by FDA import inspection personnel primarily for food safety violations.⁵⁶ Knowing that FDA is only able to inspect less than 2 percent of line items presented at ports-of-entry, we still find the number of refusals to be nothing short of alarming.

The Dogs in the Coal Mine

Beginning in 2007, FDA began to receive complaints from dog owners that their pets were either getting sick or dying from consuming chicken jerky pet treats imported from the PRC. The agency began to issue advisories to consumers not to feed these products to their pets.⁵⁷ While USDA has not permitted the importation of poultry products from the PRC for human consumption, the same restrictions have never been in place for poultry products to be used in the manufacture of pet food that falls under the jurisdiction of the FDA. So, PRC pet food manufacturers began to process poultry products in the form of jerky pet treats. As the number of consumers who had sick pets grew there began to be media coverage of the issue and some members of Congress began to take note. At the urging of former Congressman Dennis Kucinich (D-OH) and Senator Sherrod Brown (D-OH), FDA sent inspectors to the PRC in 2012 to inspect the pet food facilities that were exporting these products to the U.S. While one of the pet food manufacturers was immediately suspended from exporting its products to the U.S. because company officials were falsifying their records about one of the ingredients used in the pet treats, the other pet food manufacturers – with the support of the PRC government – refused to permit the FDA inspectors from collecting samples so that the agency could conduct laboratory analysis of the pet treats and their ingredients.⁵⁸

Meanwhile, pets were still getting sick and dying. In early 2013, the New York State Department of Agriculture and Markets initiated recalls of several poultry jerky treat products when its laboratory found that these products contained antibiotics such as Sulfaclozine, Sulfaquinoxaline, Sulfamethoxazole, Tilmicosin, Trimethoprim and Enrofloxacin. With the exception of Sulfaquinoxaline, none of the other antibiotics is approved for use in poultry in the U.S. In the case of Sulfaquinoxaline, some of the samples tested by the New York State Department of Agriculture exceeded the level approved by the FDA.⁵⁹ While the findings did not ultimately lead to the cause of the pet illnesses, they did reveal the questionable animal husbandry practices taking place in the PRC.

⁵⁵ See https://www.accessdata.fda.gov/cms_ia/importalert_521.html

⁵⁶ See <https://www.accessdata.fda.gov/scripts/importrefusals/>

⁵⁷ See <https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm092802.htm>

⁵⁸ See <https://www.fda.gov/animalveterinary/safetyhealth/productsafetyinformation/ucm360951.htm>

⁵⁹ See <http://www.aphiblog.org/2013/11/whats-hurting-the-dogs-ny-lab-searches-for-the-answer/>

In October 2013, FDA sent a letter to veterinarians asking that they report to the agency any illnesses and deaths of animals that they could attribute to the consumption of jerky pet treats. The agency published updates on what they received from the veterinarians. The last update was published in May 2016. That report disclosed that 6200 dogs, 26 cats and 3 humans became ill from consuming chicken, duck, and sweet potato pet treats mostly imported from the PRC. The report also stated that 1140 canine deaths seemed to be linked to the consumption of these products.⁶⁰ FDA reports that the number of cases has declined in recent years. Perhaps that could be attributed to the Import Alerts the agency has issued against several of the pet food manufacturers in the PRC.⁶¹

The pet treats controversy did not escape the attention of FSIS. In fact, the agency cited it in its 2013 audit report of the PRC's poultry inspection system.⁶² The pet illnesses and deaths should serve as a warning about permitting the importation of poultry products from the PRC for human consumption.

How Many Audits Does It Take to Inspect a Chicken?

Since the PRC made its initial request to export its poultry products to the U.S. in 2004, FSIS has conducted eight audits of the PRC's poultry processing and slaughter inspection systems.⁶³ The last such audits took place over two years ago – between May 8 and 28, 2015 – and the slaughter inspection system audit serves as the basis for this proposed rule. In addition to these audits, the former Deputy Undersecretary for Food Safety, Alfred V. Almanza, claimed that he had made 26 visits to the PRC to review its inspection program.⁶⁴

The 2004 Audit

FSIS audit staff found major food safety deficiencies in this initial audit. Both processing and slaughter inspection systems were evaluated. There were inconsistencies in inspection procedures among the four provincial regions visited, including inspection personnel assigned to one provincial office who had no understanding of FSIS inspection requirements; residue testing was deficient; and there were major unsanitary conditions found in several of the establishments audited.

⁶⁰ See <https://www.fda.gov/AnimalVeterinary/NewsEvents/CVMUpdates/ucm500776.htm>

⁶¹ See FDA Import Alerts 72-03; 72-05; 72-07

⁶² See https://www.fsis.usda.gov/wps/wcm/connect/ed782de3-82e1-4298-aac9-14da84d1ebd2/2013_China_Poultry_Slaughter_FAR.pdf?MOD=AJPERES, pp. 21-22.

⁶³ See <https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports>

⁶⁴ Bottenmiller Evich, Helena and Luis Sanchez. "Politico Pro Q&A; Al Almanza, newly retired FSIS Administrator," Politico Pro, August 2, 2017.

It was based on this audit's findings that FSIS proposed granting equivalency status to the PRC's processed poultry inspection system in 2005,⁶⁵ with rulemaking concluding on April 24, 2006⁶⁶ over the objections of most of the comments submitted, including those from Food & Water Watch. Due to animal health concerns expressed by USDA's Animal and Plant Health Inspection Service (APHIS), the raw poultry processed in PRC poultry facilities needed to come from "approved sources." At the time, the only "approved sources" were poultry slaughter establishments located in the U.S. and Canada. Thus, the final rule was dubbed: "Why Did the Chicken Cross the Pacific – Twice?"

The 2005 Audit

This audit focused on the slaughter inspection system in the PRC. Three regional inspection officers were visited and four poultry slaughter establishments were audited. One of the major findings in that audit was that the PRC did not conduct carcass-by-carcass inspection and "FSIS found that in all four establishments, ante-mortem inspection, post-mortem inspection and carcass disposition were performed by establishment veterinarians."⁶⁷ Government veterinarians only played a general oversight role, contrary to FSIS requirements.

The 2010 Audits

Because of congressional action prohibiting USDA from expending any resources to implement any regulation permitting the PRC to export poultry products to the U.S.,⁶⁸ there was a five-year hiatus in on-site audits conducted by FSIS of the PRC poultry inspection systems.

The processing audit was designed to reaffirm the FSIS finding in 2006 that the PRC's poultry processing inspection system was equivalent to that of the U.S. Five provincial inspection offices were visited in this audit. Even though FSIS had found in 2006 that the processing inspection system was equivalent, the 2010 audit found the following major deficiencies in the PRC inspection system:

- There was autonomy granted to the provincial offices in administering the inspection program. The audit staff found great variation in the enforcement of poultry standards across the provinces visited;
- There was variation in the enforcement of *Listeria monocytogenes* controls;
- There was no requirement in the national HACCP standards to establish measures to prevent the recurrence of a deviation from a critical limit;
- Regulatory verification of HACCP systems was inadequate;
- Establishment-paid employees were performing official inspection responsibilities.

⁶⁵ 70 FR 70746-70749

⁶⁶ 71 FR 20867-20871

⁶⁷ See <https://www.fsis.usda.gov/wps/wcm/connect/ae3db0fd-c349-4234-b76a-443e50159a9b/China2005.pdf?MOD=AJPERES>, pp. 7, 8.

⁶⁸ P.L. 110-5; P.L. 110-161; P.L. 111-8.

Instead of revoking the equivalency determination, FSIS permitted the PRC to address the issues found in the audit.

The slaughter inspection system audit team visited only two provincial offices. The major findings of that audit included:

- There was lack of coordination between provinces in the enforcement of slaughter inspection standards, so there was variation;
- There were no standards for the assignment of inspection personnel on the slaughter lines, e.g., line speeds; workloads; slaughter line configuration;
- Establishment-paid personnel were conducting slaughter line inspections, just as was the case in the 2005 audit;
- Post-mortem inspection procedures did not ensure consistent identification of pathological conditions;
- U.S. ready-to-cook standards were not met during the post-mortem inspection process;
- There was not consistent enforcement of HACCP verification requirements or to take appropriate action when the establishment was not addressing deviations when they occurred;
- There was no requirement in the national HACCP standards to establish measures to prevent the recurrence of a deviation from a critical limit;
- There was no consistent application of microbiological testing requirements for poultry.

Ironically, the OSI plant implicated in the 2014 expired poultry scandal in the PRC was a plant visited during this audit, and it was found to have had no inspection deficiencies.⁶⁹

The 2013 Audits

FSIS again conducted two separate audits in 2013 – one for the PRC processing inspection system and another for the slaughter inspection system.

In both the processing and slaughter audits, the FSIS staff visited only one provincial inspection office and four establishments during each audit.

The FSIS auditors found that the PRC had addressed all of the issues raised during 2010 processing audit, so the PRC was free to certify establishments under the provisions of the 2006 poultry processing rule to begin exporting processed poultry to the U.S. Ironically, the PRC did not certify plants until October 30, 2014,⁷⁰ and did not export any poultry products until June

⁶⁹ See

https://www.foodandwaterwatch.org/sites/default/files/vilsack_letter_chinese_chicken_audits.pdf

⁷⁰ See https://www.fsis.usda.gov/wps/wcm/connect/21458caf-2efc-4bc3-9f30-8c9adb3cbb97/China_establishments.pdf?MOD=AJPERES&ContentCache=NONE

26, 2017.⁷¹ The raw poultry came from a Chilean poultry establishment according to the export certificate obtained by Food & Water Watch through a Freedom of Information Act request.⁷²

In the slaughter inspection audit, the FSIS staff found that the PRC had still not addressed the issue of a standardized workload for on-line slaughter inspection personnel and there were still concerns expressed that post-mortem inspection was not adequately being performed.

The 2015 Audits

FSIS conducted two audits for the processing and slaughter inspection systems in the PRC. They audit team was confined to two provincial offices – Shandong and Anhui.

In the processing audit, the FSIS team visited the three remaining certified processing facilities in the PRC and a poultry processing facility operated by the U.S.-based company Cargill.⁷³ The auditors found no major issues in the audit, but made the following statement:

“Although, no processed poultry products have been exported to the United States from the People’s Republic of China’s certified establishments. The auditors confirmed that inspection workforce has continued to gain greater knowledge of United States food safety requirements.”⁷⁴

The question remains – after eleven years, do the PRC inspection personnel actually understand our food safety requirements or are they still learning them?

The slaughter inspection system audit was truly remarkable. It is over two years old and it is serving as the basis for a rule that will grant the PRC equivalency status so that it can export its own poultry to the U.S. The audit was contrived. It is only of two provincial inspection systems that the PRC selected and the audit report clearly states that the proposed rule will be based on this audit for the entire country. The audit report stated the following:

“The FSIS auditors evaluated the administrative functions of the provincial CIQ offices in the Shandong and Anhui provinces, and the two local inspection offices overseeing the slaughter establishments the CCA presented as eligible to export their products to the United States. The audit included an assessment of the operations at one duck slaughter establishment located in the Shandong Province, and one chicken slaughter establishment located in the Anhui

⁷¹ See <http://en.people.cn/n3/2017/0627/c98649-9233757.html>

⁷² FOIA 2017-FSIS-00265-F

⁷³ Establishment 3700/03439 Qingyun Ruifeng Food Company, Ltd. was decertified by the PRC on March 9, 2015.

⁷⁴ See <https://www.fsis.usda.gov/wps/wcm/connect/1b980684-5b56-41e3-9375-007bb208264a/2015-China-Processed-Poultry-FAR.pdf?MOD=AJPERES,p.9>.

Province. Additionally, FSIS assessed the adequacy of the inspection system's technical support, assessing the functions of two government laboratories, one microbiology laboratory located in the Shandong Province, and one chemical residue laboratory in the Anhui Province."⁷⁵

On that basis alone, the proposed rule needs to be rejected. As past audits have shown, the PRC has had difficulty in ensuring that its provincial inspection offices are all rowing in the same direction. By limiting FSIS to evaluating two provincial offices, the PRC has manipulated the review to demonstrate that at least those two can be consistent.

So, that begs the question – will the PRC be able to certify slaughter plants in the following provinces and semi-autonomous regions if this proposed rule is finalized: Fujian, Guangdong, Guizhou, Hainan, Hebei, Heilongjiang, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Jilin, Liaoning, Qinghai, Shaanxi, Sichuan, Yunnan, Zhejiang, Guangxi, Inner Mongolia, Ningxia, Tibet, Hong Kong?

And, as far as we can remember, this is the first instance in which the exporting country pre-selected a list of establishments that it will certify should its inspection system be granted equivalency status. As a further inducement, a couple of U.S. based slaughter and processing facilities are on that list.

Issues Not Raised in the 2015 Slaughter Audit or In the Proposed Rule

- Is the equivalency determination being negotiated with the correct inspection agency in the PRC?

FSIS has been dealing with the General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) which deals with the safety of traded goods. China's Food and Drug Administration (CFDA) is responsible for conducting domestic food inspections in the PRC. As we have cited above, Bi Jingquan, the head of the CFDA gave a report to the People's Congress in December 2016 in which he said that there were "deep-seated" problems in the PRC food safety system. His agency conducted 15 million inspections during the first nine months of 2016 and found 500,000 serious food safety violations that included intentional adulteration of food items.⁷⁶

During a meeting with representatives from the CFDA in September 2016,⁷⁷ FSIS offered to conduct a training session with CFDA officials in the PRC on the FSIS meat and poultry

⁷⁵ See <https://www.fsis.usda.gov/wps/wcm/connect/bd2f2159-63b2-4846-a738-7983f38f297f/2015-China-Slaughtered-Poultry-FAR.pdf?MOD=AJPERES>, p. 16

⁷⁶ See note 51

⁷⁷ See <https://www.fsis.usda.gov/wps/wcm/connect/fsis-content/internet/main/newsroom/meetings/officials-calendar-of-meetings/officials-calendar-2016/09-2016>

inspection program. That took place in March 2017 with a 203-page PowerPoint presentation.⁷⁸ What was interesting in that presentation was the fact that FSIS knew in March that the PRC was going to export the first shipment of processed poultry from the Changguang Food Plant with the raw poultry originating from Chilean Establishment 13-07. As we now know, that first shipment did not take place until June 26, 2017.

So, is the CFDA going to be the main agency conducting poultry inspections in the PRC and, if so, should not the equivalency determination be with that agency instead of AQSIQ? If the CFDA will be the primary inspection agency, are they prepared now to conduct inspections for poultry being exported to the U.S. since its officials only recently received a crash course on the FSIS inspection requirements?

We also thought that the U.S. was getting out of the nation building business under this Administration,⁷⁹ yet this training session seems to be providing services for another country's government.

- Is there a conflict-of-interest in the future certification of the Cargill slaughter and processing facilities?

In recent years, Cargill has sponsored trips for AQSIQ officials to the U.S. Food & Water Watch was invited to participate in a meeting with these officials in December 2015, but was unable to attend. Is the certification of the Cargill plants a quid pro quo for the trips to the U.S.? Corruption is no stranger to the Chinese food safety system. USDA needs to investigate this matter thoroughly.

- Is a line speed of 225 birds per minute in chicken slaughter equivalent to the U.S. system?

According to press reports, the Cargill chicken slaughter facility in Anhui province is running line speeds of 225 birds per minute (bpm).⁸⁰ As the agency knows, the maximum line speed permitted in the U.S. is 175 bpm and that is confined to the 20 broiler plants that were part of the original HIMP pilot.⁸¹ All other young chicken plants are restricted to running their lines at 140 bpm. So, is there an equivalency problem here? We believe that there is.

⁷⁸ FOIA 2017-FSIS-00217-F

⁷⁹ See <http://www.washingtonexaminer.com/trump-stop-nation-building-and-start-rebuilding-the-us/article/2574040>

⁸⁰ See <https://www.foodonline.com/doc/cargill-s-new-poultry-processing-facility-is-up-and-running-0001>

⁸¹ See 79 FR 49583

- If Cargill exports processed poultry products from the PRC to the U.S., will it be subject to a 35% outsourcing tax that the President has threatened to impose on other industries?⁸²

Cargill could build new poultry slaughter and processing facilities here in the U.S. and create new U.S. jobs. We suspect that one reason that Cargill has decided to build facilities in the PRC is that it is subject to fewer health, safety, labor, and environmental regulations and incurs lower labor costs there. Perhaps the Administration should consider the imposition of such a tax on Cargill should the rule be finalized.

- Will there be any FSIS personnel on site to verify that the PRC is complying with U.S. food safety and inspection requirements?

Because previous audits have shown that the PRC has had difficulty in complying consistently with U.S. standards, will the agency station personnel to provide oversight over poultry exports to the U.S.? We know that there have been efforts to recruit staff to be stationed in the PRC, and so far, the agency has not been successful. Are we really sure that the June 26 shipment of cooked poultry exported to the U.S. met the requirements of the 2006 rule? All we have is a piece of paper that claims that the PRC did.

- What role will the increased number of avian influenza outbreaks in PRC poultry flocks play in what will be permitted to be exported to the U.S.?

There has been a resurgence of avian influenza outbreaks in the PRC. Outbreaks have occurred in the provinces from which the PRC proposes to export poultry products to the U.S. Some of the strains have been so virulent that humans have died from coming into contact with infected birds. According to press reports, there have been 281 fatalities associated with exposure to the diseased poultry since October 1, 2016. Over 240,000 birds have been culled.⁸³ While arguments have been made that we will be only importing cooked poultry products from the PRC and cooking kills the virus, should U.S. consumers be forced to eat meat from sick poultry? What precautions will be taken to ensure that only meat from healthy birds will be exported to the U.S.?

- What steps will be taken to ensure that animal husbandry practices in the PRC comply with our standards?

As we have pointed out above, there have been instances in which either illegal or excessive levels of animal drugs have been found in poultry raised in the PRC. Steps have been taken in

⁸² See <http://money.cnn.com/2016/12/04/investing/donald-trump-tax-jobs/index.html>

⁸³ See <http://af.reuters.com/article/commodities07News/idAFL4N1KN45O>

the U.S. to reduce the levels of antibiotics used in the rearing of poultry,⁸⁴ and some substances have been banned in the use in animal feed.⁸⁵ How will that be enforced in poultry used for meat exported to the U.S.?

- Increased port-of-entry inspections is no substitute for equivalency.

We were concerned when we learned of comments made by Agriculture Secretary Sonny Perdue in which he tried to assure consumers that FSIS import inspectors will be able to ensure the safety of imported poultry products from the PRC.⁸⁶ That comment seems to undermine the argument that the PRC will have an equivalent poultry inspection system. The port-of-entry inspection system is designed to verify that the imported products are meeting our food safety standards. Samples of products are taken to make that determination. We have just experienced how FSIS prematurely reaffirmed the equivalency status of the inspection system for Brazilian fresh meat imports.⁸⁷ FSIS imposed 100 percent re-inspection of Brazilian fresh meat imports because the agency lost confidence in the integrity of the Brazilian meat inspection system. This was a waste of taxpayer dollars and we are about to do the same with poultry imports from the PRC. Either the PRC's poultry inspection system is equivalent to that of the U.S. or it is not. If it is not, then this proposed rule needs to be withdrawn.

Furthermore, the PRC already has a questionable track record with complying with FSIS port-of-entry inspections. In 2016, a cargo ship captain refused to permit FSIS from conducting port-of-entry inspections of a shipment of siluriformes that was exported from the PRC to the U.S.⁸⁸

- There is a document from the AQSIQ on the FSIS website entitled, "Inspection and Quarantine Working Manual on Poultry Products Exports to the United States,"⁸⁹ that seems to be related to this docket and which is only partially translated into English. Why?

We would appreciate a full translation of this document since it seems to be very relevant to the docket. This proposed rule should not be finalized until that document is fully translated.

⁸⁴ See

<https://www.fda.gov/animalveterinary/guidancecomplianceenforcement/guidanceforindustry/ucm216939.htm> and <http://www.menafn.com/1095728205/How-safe-is-chicken-imported-from-China-5-questions-answered>

⁸⁵ See <https://www.fda.gov/animalveterinary/safetyhealth/productsafetyinformation/ucm440660.htm>

⁸⁶ <https://www.cnbc.com/2017/06/27/inspectors-to-ensure-chinese-chicken-imports-safe-usdas-sonny-perdue.html>

⁸⁷ See <https://www.usda.gov/media/press-releases/2017/06/22/perdue-usda-halting-import-fresh-brazilian-beef>

⁸⁸ See <https://www.agri-pulse.com/articles/7077-chinese-catfish-cargo-retreats-from-usda-inspectors>

⁸⁹ See <https://www.fsis.usda.gov/wps/wcm/connect/1ff05195-27b8-4f98-a873-2c3316060ec3/Inspection-Quarantine-Working-Manual-Poultry-Export-US.pdf?MOD=AJPERES>

In fact, the comment period should be reopened so that stakeholders can address any concerns they have with the material in the document.

- If consumers do not wish to purchase poultry products from the PRC, how will they know?

Cooked poultry products are not subject to country-of-origin labeling requirements,⁹⁰ so consumers will not know that they are purchasing or consuming processed poultry products from the PRC. In addition, restaurants that serve these products do not have to disclose that information to customers on menus. Further processors, such as soup manufacturers, do not have to disclose on their product labels that they are using processed poultry from the PRC in their products. So, consumers who do not wish to purchase these products will be left completely in the dark.

Conclusion

For all of the reasons cited above, we strongly urge that FSIS withdraw the proposed rule. A recent Washington Post article on this issue does a very good job of summarizing consumer concerns about moving forward.⁹¹

In addition, Congress, under the leadership of Congresswoman Rosa DeLauro (D-CT), remains so concerned about the safety of imported poultry products from the PRC that it has explicitly prohibited USDA from purchasing such products for use in the various nutrition programs that the department administers.⁹² This provision has received overwhelming bipartisan support in recent years and is likely to be renewed in the FY 2018 appropriations act. If Congress believes that these products are unsafe to serve our children, then they should be kept out of our grocery stores and restaurants.

Should you have any questions related to our comments, please feel free to contact me.

Sincerely,



Wenonah Hauter
Executive Director

⁹⁰ <https://www.ams.usda.gov/rules-regulations/cool/common-questions-answers>

⁹¹ https://www.washingtonpost.com/news/wonk/wp/2017/07/07/the-dark-side-of-trumps-much-hyped-china-trade-deal-it-could-literally-make-you-sick/?utm_term=.2f91ea19adab

⁹² P.L. 113-235; P.L. 114-113; 115-31.