

such importations would be by individuals for personal use.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

#### **PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS**

1. The authority citation for part 94 continues to read as follows:

**Authority:** 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

#### § 94.6 [Amended]

2. In § 94.6, paragraph (a)(2) is amended by adding "Costa Rica," immediately after "Chile,"

Done in Washington, DC, this 19th day of May 1997.

**Terry L. Medley,**

*Administrator, Animal and Plant Health Inspection Service.*

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 318

[Docket No. 96-023DF]

RIN 0583-AC14

#### Use of Liquid Nitrogen for Contact Freezing of Meat and Meat Products

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

**ACTION:** Direct final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) will permit the use of liquid nitrogen for the contact freezing of meat and meat products. The use of liquid nitrogen to contact freeze poultry and poultry products is already permitted and the effects are the same. The substance is completely safe for the consumer, and, with the use of reasonable safety precautions as prescribed by Occupational Safety and Health Administration (OSHA) standards, safe for inspectors and workers in the establishment as well. **EFFECTIVE DATE:** This rule will be effective on July 21, 1997, unless adverse or critical comments within the scope of the rulemaking or notice of intent to submit adverse comments within the scope of the rulemaking are received on or before June 23, 1997.

**ADDRESSES:** Send an original and two copies of adverse written comments within the scope of the rulemaking to: FSIS Docket Clerk, DOCKET #96-023DF, Room 102 Cotton Annex Building, 300 12th Street, SW, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700. Data submitted by the petitioner and all comments received will be available for public inspection from 8:30 a.m. to 1:00 p.m., and from 2:00 p.m. to 4:30 p.m., Monday through Friday, in the FSIS Docket Room.

**FOR FURTHER INFORMATION CONTACT:** Charles R. Edwards, Director, Facilities, Equipment, Labeling, and Compounds Review Division, (202) 418-8900.

**SUPPLEMENTARY INFORMATION:** BOC Gases petitioned the Department to change the Federal meat inspection regulations to permit liquid nitrogen to be used for the contact freezing of meat and meat products. The petitioner made the point that this substance is already permitted to contact freeze poultry and poultry products under the poultry products inspection regulations. In addition, the petitioner submitted correspondence from the Food and Drug Administration (FDA) which indicated that liquid nitrogen is generally

recognized as safe for use as a propellant, aerating agent and gas under 21 CFR 184.1540. Although not specifically listed as a freezant, FDA has advised that it does not object to the use of liquid nitrogen as a freezant, so long as it is of a purity suitable for its intended use. FSIS also knows of no food safety concerns with respect to this substance.

Further, because the liquid nitrogen has a temperature of  $-320^{\circ}\text{F}$ , such chilling is ideal for achieving rapid freezing which halts bacterial growth, thus both increasing food safety by inhibiting the multiplication of pathogens and improving shelf life and meat quality by inhibiting spoilage organisms. The possibility of cross contamination from exchange of marinade or breading is virtually nonexistent because of the extremely fast chill, creating an immediate stabilization of the exterior surfaces upon contact.

Liquid nitrogen is an asphyxiant and is dangerously cold. However, the Occupational Safety and Health Administration (OSHA) requirements include a 19% oxygen atmosphere and the use of venting and warning signs to prevent human exposure. This method of chilling has been used in a number of poultry plants for some time without incident.

Therefore, FSIS is amending the table of approved substances in 9 CFR 318.7 (c)(4) to allow the use of liquid nitrogen as a contact freezant for meat and meat products. FSIS expects no adverse public reaction from this change in regulatory language. Therefore, unless the Agency receives adverse or critical comments within the scope of the rulemaking or a notice of intent to submit adverse comments within 30 days, the action will become final 60 days after publication in the **Federal Register**. If such adverse comments are received, the final rulemaking will be withdrawn and a proposed rulemaking notice will be published. The proposed rulemaking notice will establish a comment period.

#### 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 regulation 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.

**Executive Order 12866 and the Regulatory Flexibility Act**

This final rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this direct final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The direct final rule will permit the use of liquid nitrogen as a contact freezant for meat and meat products. Use of this freezant is voluntary. Because the freezant does not add anything to the product ingredients, a label change is not required. Decisions by individual

manufacturers on whether to use this freezant will be based on their conclusions as to whether the benefits of use of this freezant outweigh the costs, including following the safety precautions mandated by OSHA.

**List of Subjects in 9 CFR Part 318**

Food additives, Meat inspection.

**Final Rule**

For the reasons discussed in this preamble, FSIS is amending 9 CFR part 318 as follows:

**PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS**

1. The authority citation for part 318 continues to read as follows:

**Authority:** 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. In the chart in § 318.7 (c)(4), under the Class of Substance “Gases” a new entry for the substance “liquid nitrogen” is added right after “carbon dioxide solid (dry ice)” to read as follows:

**§ 318.7 Approval of substances for use in the preparation of products.**

\* \* \* \* \*  
 (c) \* \* \*  
 (4) \* \* \*

Class of substance	Substance	Purpose	Products	Amount
* * * * *				
Gases				
	Liquid nitrogen .....	Contact freezant .....	Various .....	Sufficient for purpose.

\* \* \* \* \*  
 Done at Washington, DC, on May 14, 1997.  
**Thomas J. Billy,**  
*Administrator.*  
 [FR Doc. 97–13408 Filed 5–21–97; 8:45 am]  
 BILLING CODE 3410–DM–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 96–NM–201–AD; Amendment 39–10036; AD 97–11–07]

RIN 2120–AA64

**Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model MD–90–30 airplanes, that requires revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [MD–90–30 Airworthiness Limitations Instructions (ALI)]. The revision will incorporate certain compliance times for inspections to detect fatigue cracking of principal structural elements (PSE) and to add PSE’s to the ALI. This amendment is prompted by analysis of data that identified reduced initial

inspection thresholds, reduced repetitive inspection intervals for PSE’s, and other PSE’s to be added to the ALI. The actions specified by this AD are intended to ensure that fatigue cracking of various PSE’s are detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

**EFFECTIVE DATE:** June 26, 1997.

**ADDRESSES:** Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Brent Bandle, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5237; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model MD–90–30 airplanes was published in the **Federal Register** on March 7, 1997 (62 FR 10490). That action proposed to require operators to revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [MD–90–30 Airworthiness Limitations Instructions (ALI)]. The revision would incorporate certain compliance times for inspections

to detect fatigue cracking of principal structural elements (PSE) and to add PSE’s to the ALI.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

**Conclusion**

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Cost Impact**

There are approximately 15 McDonnell Douglas Model MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 11 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$660, or \$60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.