

# Proposed Rules

Federal Register

Vol. 70, No. 89

Tuesday, May 10, 2005

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 327

[Docket No. 02–019P]

RIN 0583–AD16

#### Addition of Chile to the List of Countries Eligible To Export Meat and Meat Products to the United States

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

**ACTION:** Proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to add Chile to the list of countries eligible to export meat and meat products to the United States. Reviews by FSIS of Chile's laws, regulations, and other materials show that its meat inspection system includes requirements equivalent to all provisions in the Federal Meat Inspection Act (FMIA) and its implementing regulations.

Although a foreign country may be listed as eligible to export meat and meat products, products from that country must also comply with all other U.S. requirements, including those of the U.S. Customs Service and the restrictions under Title 9, part 94 of the Animal and Plant Health Inspection Service (APHIS) regulations that relate to the importation of meat and meat products from foreign countries into the United States. FSIS and APHIS work closely together to ensure that meat and meat products imported into the United States comply with the regulatory requirements of both agencies.

Under this proposal, meat and meat products processed in certified Chilean establishments may be exported to the United States. All such products will be subject to re-inspection at United States ports-of-entry by FSIS inspectors.

**DATES:** Comments must be received on or before July 11, 2005.

**ADDRESSES:** FSIS invites interested persons to submit comments on this

proposed rule. 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.

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

All submissions received must include the Agency name and docket number 02–019P.

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 [http://www.fsis.usda.gov/regulations\\_&\\_policies/2005\\_Proposed\\_Rules\\_Index/index.asp](http://www.fsis.usda.gov/regulations_&_policies/2005_Proposed_Rules_Index/index.asp).

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

#### SUPPLEMENTARY INFORMATION:

##### Background

FSIS is proposing to amend the Federal meat inspection regulations to add Chile to the list of countries eligible to export meat and meat products to the United States (9 CFR 327(b)), as was requested by the Chilean government. Chile is not currently listed as eligible to export such products to the United States.

Listing Chile as eligible to export meat products to the United States would expand international markets and enhance the free flow of trade with Chile as required under World Trade Organization (WTO) provisions. This proposed action would support U.S. trade initiatives and USDA's policy of liberalizing agricultural trade with Chile, and would honor U.S. obligations to WTO. Under the Uruguay Round Agreement, FSIS is obligated to make equivalence determinations of the inspection systems of foreign countries requesting to import meat, poultry, or egg products into the United States.

Section 20 of the FMIA (21 U.S.C. 620) prohibits the importation into the United States of carcasses, parts of carcasses, meat, or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines that are capable of use as human food that are adulterated or misbranded. The FMIA also requires that livestock from which imported meat products are produced be slaughtered and handled in connection with slaughter in accordance with the Humane Slaughter Act (7 U.S.C. 1901–1906). Imported meat products must be in compliance with part 327 of title 9, Code of Federal Regulations (9 CFR part 327), to ensure that they meet the standards provided in the FMIA. Section 327.2 establishes the procedures by which foreign countries that want to export meat and meat products to the United States may become eligible to do so.

Section 327.2(a) requires authorities in a foreign country's meat inspection system to certify that (1) the system provides standards equivalent to those of the United States, and (2) the legal authority for the system and its implementing regulations are equivalent to those of the United States. Specifically, a country's regulations must impose requirements equivalent to those of the United States in the following areas: (1) Ante-mortem and post-mortem inspection; (2) official controls by the national government over plant construction, facilities, and equipment; (3) direct and continuous supervision of slaughter activities, where applicable, and product preparation by official inspection personnel; (4) separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; (6) official controls over condemned product; and (7) requirements of a Hazard Analysis and Critical Control Point (HACCP) system within certified establishments.

Section 327.2 also requires a meat inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, to ensure that those establishments and their meat products comply with requirements equivalent to the provisions of the FMIA and the meat product inspection regulations. Foreign

country authorities must be able to ensure that all certifications required under Part 327 of the meat product inspection regulations (Imported Products) can be relied upon before USDA-FSIS will grant approval to export meat products to the United States.

In addition to meeting the certification requirements, a foreign country's inspection system must be evaluated by FSIS before eligibility to export meat products can be granted. This evaluation consists of two processes: A document review and an on-site review. The document review is an evaluation of the laws, regulations, and other written materials used by the country to operate its meat inspection program. To help the country in organizing its material, FSIS gives the country questionnaires asking for detailed information about the country's inspection practices and procedures in five risk areas, which are the focus of the evaluation. These five risk areas are sanitation, animal disease, slaughter/processing, residues, and enforcement. FSIS evaluates the information to verify that the critical points in the five risk areas are addressed satisfactorily with respect to standards, activities, resources, and enforcement. If the document review is satisfactory, an on-site review is scheduled using a multi-disciplinary team to evaluate all aspects of the country's inspection program, including laboratories and individual establishments within the country.

The process of determining equivalence is described fully on the FSIS Web site at <http://www.fsis.usda.gov/OPPDE/IPS/EQ/EQProcess.htm>. Besides relying on its initial determination of a country's eligibility, coupled with ongoing reviews to ensure that products shipped to the United States are safe, wholesome, and properly labeled and packaged, FSIS randomly reinspects meat and poultry products as they are offered for entry into the United States.

#### **Evaluation of the Chilean Meat Inspection System**

FSIS conducted a thorough review of the Chile meat inspection system to determine if it is equivalent to the U.S. meat inspection system. First, FSIS compared Chile's meat inspection laws and regulations with U.S. requirements. The study concluded that the requirements contained in Chile's meat inspection laws and regulations are equivalent to those mandated by the FMIA and implementing regulations. FSIS then conducted an on-site review of the Chile meat inspection system in operation. The FSIS review team

concluded that Chile's implementation of meat slaughter and processing standards and procedures was equivalent to those of the United States. The audit reports on Chile can be found on the FSIS Web site at <http://www.fsis.usda.gov/OPPDE/Far/index.htm>.

The FSIS process to determine the equivalence of a country's meat or poultry inspection system is independent from any APHIS animal health status determination that may be made for the same given country. The APHIS declaration regarding animal health or disease status, however, also determines whether a country can export product to the U.S., as well as the types of products that would be eligible.

Even though a foreign country is listed in FSIS regulations as eligible to export meat products to the U.S., those meat products must also comply with all other U.S. requirements before entry. Before a shipment of meat or meat products may be presented for re-inspection at the port-of entry by FSIS, it must have first met the requirements of both the U.S. Customs Service and APHIS.

APHIS is responsible for keeping foreign animal diseases out of the United States. Under title 9, part 94 of the Code of Federal Regulations (9 CFR part 94), APHIS sets forth restrictions on the importation of any fresh, frozen, and chilled meat, meat products, and edible products from countries in which certain animal diseases exist. APHIS can independently restrict an eligibility listing through a "regionalization" process (9 CFR part 92—Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions). Those products that APHIS has restricted from entering the United States because of animal disease conditions in the country of origin will be refused entry before reaching an FSIS import inspection facility.

FSIS and APHIS work closely together to ensure that meat and meat products imported into the United States comply with the regulatory requirements of both agencies. In 1985, FSIS and APHIS signed a memorandum of understanding (MOU) in which both agencies agreed to cooperate in meeting their respective needs relative to information exchange of disease surveillance, diagnostic testing, investigations, trace backs, and animal and public health emergencies to achieve their related objectives of reducing the spread of animal diseases, and of providing a wholesome and economical food supply. The MOU is updated periodically to ensure that it addresses areas of importance to both agencies. In accord with this MOU, FSIS

and APHIS established procedures for communication between the two agencies regarding the inspection, handling, and disposition of imported meat products. APHIS and FSIS communicate regularly to ensure that products APHIS has restricted from entering the United States because of animal disease concerns are not imported into the United States.

FSIS notes that APHIS has found no current evidence of animal disease of consequence in Chile. Certain animal diseases can be highly communicable and could have a devastating economic impact on the U.S. meat industry were they to enter the United States. For example, bovine Foot and Mouth Disease (FMD) is not currently present in Chile but does occur in nearby Argentina. Due to the proximity of Argentina, APHIS and Chilean officials closely monitor this animal disease and have found no cause for concern.

For these reasons, FSIS believes that sufficient controls are in place to ensure that meat and meat products processed in Chile will not pose a risk in the U.S.

Accordingly, FSIS is proposing to amend Part 327 of the Federal meat inspection regulations to add Chile as a country from which meat and meat products may be eligible for import into the United States. As a country eligible to export meat products to the United States, the government of Chile would certify to FSIS those establishments wishing to export such products to the U.S. and operating according to U.S. requirements. FSIS would retain the right to verify that establishments certified by the Chile government are meeting the U.S. requirements. This verification would be done through annual on-site reviews of the establishments while they are in operation.

All meat products exported to the United States from Chile would be subject to reinspection at the ports-of-entry for transportation damage, labeling, proper certification, general condition, and accurate count. Other types of inspection would also be conducted, including examining product for defects and performing laboratory analyses to detect chemical residues or microbial contamination.

Products that pass reinspection will be stamped with the official mark of inspection and allowed to enter U.S. commerce. If they do not meet U.S. requirements, they will be "Refused Entry" and must be re-exported, destroyed, or allowed entry for the purpose of converting to animal food.

### Economic Impact Analysis

The United States annually imports about 14 million metric tons (MT) of meat products, worth about \$4.2 billion. These amounts are projected to increase by 2011 to about 17 million MT, worth \$5.1 billion.

Current information indicates that several establishments in Chile would be able to ship meat and, potentially, meat products to the United States—largely beef, pork, and lamb. The exports would consist of an estimated 600 MT of bone-in and boneless beef valued at \$1.8 million; an estimated 500 MT of bone-in pork cuts (ribs) valued at \$2.65 million; and about 500 MT of lamb carcasses, carcass halves, and quarters, valued at \$1.5 million. Listing Chile as eligible to export meat to the United States would therefore add a very small portion to total U.S. meat imports.

The additional product shipments are likely to have only a slight effect on the Agency's assignment of import inspection resources at points of entry on the East and West coasts. It is unlikely, on the basis of current information, that any additional import inspection personnel would need to be hired.

Benefits would include increased trade with Chile and the availability to U.S. consumers of a greater quantity of meat of the kinds mentioned. Wholesale prices of all grades of these products have been moving upward during the last several years. Importing beef, pork, and lamb from Chile would not affect this trend or would do so only very slightly. Both nations would benefit from an expansion of trade in meat as part of a wide range of commodities.

Constraints on the expansion of trade in meat between the United States and Chile are expected to occur mainly in the form of restrictions imposed under U.S. animal health laws. APHIS has agreed to supply FSIS with evaluations and current updates of the animal disease status of regions in Chile where establishments likely to export product to the United States are located.

Estimates of benefits and costs of increased trade in meat with Chile are based on data supplied by FSIS Office of International Affairs and Field Operations staffs; Foreign Agricultural Service (FAS) databases and trade reports; Economic Research Service (ERS) databases, reports, and analyses; and Census Bureau databases and reports. Standard economic analytical techniques were used in estimating effects of the proposed rulemakings.

The major source of uncertainty in estimating the effects of the proposed

rulemaking is in forecasting the number of establishments likely to be certified for importation of products into the United States. Other, less important, sources of uncertainty include imprecision in the economic data to be consulted, e.g., estimates of demand elasticities and probable errors in multi-year forecasts of prices for the commodities to be regulated under the proposed rulemakings.

### 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). This proposed rule would add Chile to the list of countries eligible to export meat and meat products to the United States. The volume of trade stimulated by this rule would be very small and would have relatively little effect on supply and prices. Therefore, this proposed rule is not expected to have a significant impact on small entities that produce these types of products domestically.

### Paperwork Requirements

No new paperwork requirements are associated with this proposed rule. Foreign countries wanting to export meat and meat products to the United States are required to provide information to FSIS certifying that their inspection systems provide standards equivalent to those of the United States, and that the legal authority for the systems and their implementing regulations are equivalent to those of the United States, before they may start exporting such product to the United States. FSIS collects this information one time only. FSIS gave Chile questionnaires asking for detailed information about the country's inspection practices and procedures to assist the country in organizing its materials. This information collection was approved under OMB number 0583-0094. The proposed rule contains no other paperwork requirements.

### 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).

### 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.

### 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 final rule, FSIS will announce it on-line through the FSIS Web page located at [http://www.fsis.usda.gov/regulations\\_&\\_policies/2005\\_Proposed\\_Rules\\_Index/index.asp](http://www.fsis.usda.gov/regulations_&_policies/2005_Proposed_Rules_Index/index.asp). The Regulations.gov Web site 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 Web site 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.

In addition, FSIS offers an email subscription service which provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at [http://www.fsis.usda.gov/news\\_and\\_events/email\\_subscription/](http://www.fsis.usda.gov/news_and_events/email_subscription/) and allows FSIS customers to sign up for subscription options across eight categories. Options range from recalls to export information to regulations,

directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

#### List of Subjects in 9 CFR Part 327

Imported products.

For the reasons set out in the preamble, FSIS is proposing to amend 9 CFR part 327 as follows:

#### PART 327—IMPORTED PRODUCTS

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

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

##### § 327.2 [Amended]

2. Section 327.2 is amended by adding Chile in alphabetical order to the list of countries in paragraph (b).

Done at Washington, DC, on May 4, 2005.

**Barbara J. Masters,**  
*Acting Administrator.*

[FR Doc. 05–9279 Filed 5–9–05; 8:45 am]

**BILLING CODE 3410–DM–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2005–21170; Directorate Identifier 2002–NM–124–AD]

RIN 2120–AA64

#### Airworthiness Directives; Boeing Model 767–200 and 767–300 Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 767–200 and 767–300 series airplanes. This proposed AD would require performing a general visual inspection to determine the part number of the I-beams of the center overhead stowage bin modules to identify I-beams having 9.0g (gravitational acceleration) tie rods attached and to determine the configuration of the center overhead stowage bin modules; and, for certain center overhead stowage bin modules, installation of support straps. This AD was prompted by the results of tests conducted by the airplane manufacturer. We are proposing this AD to prevent failure of the attachment of the 9.0g tie rods to the center overhead

stowage bin modules. This failure could result in collapse of those stowage bin modules, and consequent injury to passengers and crew and interference with their ability to evacuate the airplane in an emergency.

**DATES:** We must receive comments on this proposed AD by June 24, 2005.

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

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.

- By fax: (202) 493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21170; the directorate identifier for this docket is 2002–NM–124–AD.

#### FOR FURTHER INFORMATION CONTACT:

Susan Rosanske, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6448; fax (425) 917–6590.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2005–21170; Directorate Identifier 2002–NM–124AD” in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit <http://dms.dot.gov>.

#### Examining the Docket

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

#### Discussion

The airplane manufacturer has notified us that, during tests it conducted, some center overhead stowage bin modules failed at 6.6g (gravitational acceleration) along the 9.0g tie rod forward bolt line. Based on the results of these tests, we have determined that center overhead stowage bin modules may not meet the 9.0g forward load requirements of section 25.561 (“General”) of the Federal Aviation Regulations (14 CFR 25.561). As a result, the center overhead stowage bin modules may collapse, causing injury to passengers and crew and interfere with their ability to evacuate the airplane in an emergency. The actions specified by the proposed AD are intended to prevent failure of the attachment of the 9.0g tie rods to the center overhead stowage bin modules. This failure could result in collapse of those stowage bin modules, and consequent injury to passengers and crew and interference with their ability to evacuate the airplane in an emergency.

#### Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 767–25–0320, dated April 11, 2002. The service bulletin describes procedures for