

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 319

[Docket No. 96-040P]

RIN 0583-AC29

Use of Binders in "Ham With Natural Juices" Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to permit the use of binders in "Ham with Natural Juices" products. FSIS currently permits the use of certain binders in cured pork products labeled "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients." FSIS is proposing this action in response to a petition submitted by Hormel Foods Corporation, requesting the Agency to allow modified food starch (or "food starch, modified") to be used as a binder in "Ham with Natural Juices" products, in an amount not exceeding 2 percent of product formulation, to prevent purging of the brine solution, thereby retaining product moisture and enhancing texture.

DATES: Comments must be received on or before June 9, 1997.

ADDRESSES: Send an original and two copies of comments to: FSIS Docket Clerk, DOCKET #96-040P, Room 3806, 1400 Independence Avenue, SW, Washington, DC 20250-3700. Reference materials cited in this document and any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Edwards, Director, Facilities, Equipment, Labeling and Compounds Review Division, Office of Policy, Program Development, and Evaluation; (202) 418-8900.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1996, FSIS was petitioned to approve the use of modified food starch in "Ham with Natural Juices" products, in an amount not exceeding 2 percent of product formulation, to prevent purging of the brine solution. During the manufacturing of cured pork products labeled "Ham with Natural Juices," the products are pumped with a brine solution, the ultimate level of which is controlled by a protein-fat-free (PFF) standard described in 9 CFR 319.104. PFF is the minimum meat protein which is indigenous to the raw, unprocessed pork, expressed as a percent of the non-fat portion of the finished product. These products are normally packaged in clear plastic and enclosed by a vacuum seal. Subsequent to the curing process, the brine purges from the product, settling in the product's package, reducing the moisture content of the product and negatively affecting product appearance and quality.

FSIS currently permits the use of the binders listed in 9 CFR 318.7(c)(4), including modified food starch, in products labeled "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients" to prevent purging of the brine solution. These binders may not, however, currently be used in "Ham with Natural Juices" products. FSIS has prohibited their use in "Ham with Natural Juices" products to prevent economic adulteration. FSIS believes that consumers consider ham products labeled "Ham with Natural Juices" to be premium products because they do not contain "fillers," such as binders, and thus, are typically priced higher than the "binders and water added" ham products. Furthermore, in accordance with 9 CFR 319.104, "Ham with Natural Juices" products must meet a higher PFF value than "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients" products, which reflects less added substances.

The petitioner has developed a new process for producing its "Ham with Natural Juices" product in response to what they view as consumer demands for an improved ham product. The new process includes the use of modified food starch, which is currently prohibited in a "Ham with Natural

Juices" product. According to the petitioner, their new "Ham with Natural Juices" process requires the use of modified food starch in order to enhance the characteristics of texture, and, more importantly, moisture retention that consumers associate with the product. The petitioner has submitted technical data and other information demonstrating that the finished product does not fall below the minimum regulated PFF value with an acceptable yield loss, as illustrated by purged value differences over time. Because (1) the product adheres to the minimum PFF value, and therefore, consumers will be receiving a "Ham with Natural Juices" product with essentially the same protein content and other nutrients as before, even with the addition of modified food starch and other permitted binders, and (2) modified food starch and the other permitted binders will appear in the ingredients statement to inform consumers of their presence, the Agency has concluded that "Ham with Natural Juices" remains an acceptable product identity. For these reasons, FSIS is proposing to permit the use of binders in "Ham with Natural Juices" products in an amount not exceeding 2 percent of product formulation, to prevent purging of the brine solution.

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.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant and therefore has not been reviewed by OMB under Executive Order 12866.

The Administrator has made an initial determination that this proposed rule would 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 proposed rule would permit the use of any one of the approved binders in "Ham with Natural Juices" products. Manufacturers opting to use the

approved binders in "Ham with Natural Juices" products would incur labeling expenses in revising the ingredients statements of their labels to show the presence of the approved binders. Decisions by individual manufacturers on whether to use any one of the approved binders in "Ham with Natural Juices" products would be based on their conclusions that the benefits outweigh the implementation costs.

Paperwork Requirements

Abstract: FSIS has reviewed the paperwork and recordkeeping requirements in this proposed rule in accordance with the Paperwork Reduction Act. This rule requires manufacturers opting to use one of the approved binders in "Ham with Natural Juices" products to revise their product labels. The labels would not be submitted to FSIS for approval because they would be generically approved in accordance with 9 CFR 317.5.

Estimate of Burden: Establishments must develop product labels in accordance with the regulations. FSIS estimates that it will take 60 minutes to design and develop modified product labels in accordance with the proposed regulation.

Respondents: Meat establishments.

Estimated number of Respondents: 1,079 meat establishments.

Estimated number of Responses per Respondent: FSIS estimates that each establishment would modify about 2 product labels.

Estimated Total Annual Burden on Respondents: 2158 hours.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lee Puricelli, Paperwork Specialist, see address above, and Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

List of Subjects in 9 CFR Part 319

Food Grades and Standards, Food Labeling.

For the reasons set out in the preamble, 9 CFR part 319 would be amended as follows:

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

1. The authority citation for part 319 would continue 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. The first sentence of paragraph (d) of section 319.104 would be revised to read as follows:

§ 319.104 Cured pork product.

* * * * *

(d) The binders provided in § 318.7(c)(4) of this subchapter for use in cured pork products may be used singly in those cured pork products labeled as "Ham Water Added," "Ham and Water Product—X% of Weight is Added Ingredients," and "Ham with Natural Juices." * * *

Done at Washington, DC, on: April 16, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–10679 Filed 4–24–97; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AB75

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Cumulative Voting

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: Section 615.5230 of Farm Credit Administration (FCA) Regulations provides for cumulative voting by shareholders in the election of Farm Credit Bank (FCB) directors and requires the unanimous consent of the voting shareholders to eliminate such cumulative voting. The FCA proposes to amend § 615.5230(a)(2) to provide that an FCB may eliminate cumulative voting in director elections with the consent of 75 percent of the bank's voting shareholders, instead of the currently required unanimous consent.

DATES: Written comments must be received on or before May 27, 1997.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio,

Director, Regulation Development Division, Office of Policy Development and Risk Control, 1501 Farm Credit Drive, McLean, VA, 22102–5090 or sent by facsimile transmission to FAX number (703) 734–5784. Comments may also be submitted via electronic mail to "reg-comm@fca.gov".

Copies of all communications received will be available for examination by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Gaylon J. Dykstra, Policy Analyst, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498;

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The FCA has received petitions from Farm Credit System (System) institutions and from an association board member in the Texas district requesting revision of the requirement of unanimous consent of an FCB's shareholders to eliminate the cumulative voting requirement for the election of directors set forth in § 615.5230(a)(2)(ii). The petitioners stated their belief that the provision is unduly burdensome and that the requirement for cumulative voting, which was intended to make the election of bank directors fairer for smaller associations, actually provided questionable benefits. The petitioners contended that cumulative voting works most effectively in situations where the entire board of directors is elected each year, or at least where the board is relatively large and several positions are open for election each year, and they noted that these situations are relatively rare in the System. The petitioners stated that cumulative voting was almost impossible to change and requested revision of the regulation to enable a bank to eliminate cumulative voting with the consent of either a simple majority or a two-thirds' majority of the shareholders.

Cumulative voting as discussed in the context of the present regulation relates only to the election of FCB directors by the owner associations and occurs only when more than one director position is being filled. Section 615.5230 was promulgated in 1988 to accommodate structural changes in the System effected by the Agricultural Credit Act of 1987. When the regulations were