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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS-2020-0066]

Alignment of Canned Meat and Canned Product Requirements

AGENCY: Animal and Plant Health Inspection Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: We are revising the regulations for cured or cooked meat from regions where foot-and-mouth disease exists to reflect changes to the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) regulations regarding thermally processed, commercially sterile meat. This action will remove from our regulations reference to a section in FSIS' regulations that was eliminated when FSIS consolidated their regulations regarding thermally processed, commercially sterile meat. This action will align the Animal and Plant Health Inspection Service's animal product regulations with the current FSIS regulations.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Dr. Nathaniel J. Koval, Veterinary Medical Officer, APHIS Veterinary Services, Strategy and Policy, Animal Product Import and Export, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 851-3434;

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SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various foreign animal

diseases. The regulations in § 94.4 prescribe conditions for importing into the United States cured or cooked meat from regions where APHIS considers foot-and-mouth disease (FMD) to exist.

Currently, § 94.4(b)(3) states that canned product (canned meat) as defined in 9 CFR 318.300(d) is exempt from the requirements of § 94.4. The U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) administers the regulations in 9 CFR part 318. In brief, paragraph (d) of § 318.300 had defined canned product as a meat food product with a water activity above 0.85 that receives a thermal process either before or after being packed in a hermetically sealed container. The intent of § 94.4(b)(3) is, accordingly, to specify that canned product that meets FSIS' definition of that term is exempt from our conditions governing cured or cooked meat from regions where APHIS considers FMD to exist. This exemption is warranted because canned product that meets FSIS' regulatory definition of that term has been processed in a manner that denatures FMD.

However, on May 31, 2018, FSIS published in the *Federal Register* (83 FR 25302-25325, Docket No. FSIS-2015-0036)¹ a final rule that, among other things, combined their regulations for thermally processed, commercially sterile meat products that appeared in 9 CFR 318.300 through 381.311 into 9 CFR part 431, Thermally Processed, Commercially Sterile Products. As FSIS' final rule has taken effect, the reference to § 318.300(d) in APHIS' regulations is outdated, and it has become necessary to update our regulations to reflect this change by removing reference to 9 CFR 318.300(d) and replacing it with the reference to 9 CFR part 431.

Effective Date

This rule updates APHIS' regulations in order to ensure that references to FSIS' regulations are accurate. Therefore, APHIS considers there to be good cause pursuant to

¹ To view the final rule, go to www.regulations.gov and enter FSIS-2015-0036 in the Search box.

5 U.S.C. 553 to find that an opportunity for public comment is unnecessary and contrary to the public interest, and this rule may be made effective less than 30 days after publication in the *Federal Register*. Further, since this rule ensures that regulations issued by one USDA Agency are cited accurately in those issued by another USDA Agency, APHIS considers it to relate to internal agency management with USDA, and it is, accordingly, exempt from the provisions of Executive Orders 12866 and 12988. Finally, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 501) and, thus, it is exempt from the provisions of that Act. Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Paperwork Reduction Act

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

Lists of Subjects in 9 CFR Part 94

Animal diseases, Canned meat, Canned product, Imports, Livestock, Meat and meat products.

Accordingly, we amend 9 CFR part 94 as follows:

PART 94—FOOT-AND-MOUTH DISEASE, NEWCASTLE DISEASE, HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, 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. 1633, 7701-7772, 7781-7786, and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.4 [Amended]

2. In § 94.4, paragraph (b)(3) is amended by removing the text “§ 318.300(d) of this chapter” and adding the text “part 431 of this title” in its place.

Done in Washington, DC, this 15th day of February 2023.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

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