

**§ 12.4 [Amended]**

- 3. Amend § 12.4, in paragraph (d)(2), by removing the words “or highly erodible land” and adding, in their place, the words “on highly erodible land.”
- 4. Amend § 12.5 as follows:
- a. Revise paragraph (a)(5) to read as set forth below,
- b. Add paragraph (a)(7) to read as set forth below,
- c. Revise paragraph (b)(5)(i) to read as set forth below.

**§ 12.5 Exemption.**

(a) \* \* \*

(5) *Good faith.* (i) No person will become ineligible under § 12.4 as a result of the failure of such person to apply a conservation system on highly erodible land if all of the following apply:

(A) FSA determines such person has acted in good faith and without the intent to violate the provisions of this part;

(B) NRCS determines that the person complies with paragraph (a)(5)(ii) of this section; and

(C) The good faith determination of the FSA county or State committee has been reviewed and approved by the applicable State Executive Director, with the technical concurrence of the State Conservationist; or district director, with the technical concurrence of the area conservationist.

(ii) A person who otherwise meets the requirements of paragraphs (a)(5)(i)(A) and (a)(5)(i)(C) of this section will be allowed a reasonable period of time, as determined by NRCS, but not to exceed one year, during which to implement the measures and practices necessary to be considered actively applying the person’s conservation plan, as determined by USDA. If a person does not take the required corrective actions, the person may be determined to be ineligible for the crop year during which such actions were to be taken, as well as any subsequent crop year.

(iii) Notwithstanding the good-faith requirements of paragraph (a)(5)(i) of this section, if NRCS observes a possible compliance deficiency while providing on-site technical assistance, NRCS will provide to the responsible person, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subtitle. NRCS will provide this information in lieu of reporting the observation as a violation, if the responsible person attempts to correct the deficiencies as soon as practicable, as determined by NRCS, after receiving the information, but not

later than one year after receiving the information. If a person does not take the required corrective actions, the person may be determined to be ineligible for the crop year during which the compliance deficiencies occurred, as well as any subsequent crop year.

(iv) A person who meets the requirements of paragraphs (a)(5)(i) and (a)(5)(ii) of this section will, in lieu of the loss of all benefits specified under § 12.4(d) and (e) for such crop year, be subject to a reduction in benefits by an amount commensurate with the seriousness of the violation, as determined by FSA. The dollar amount of the reduction will be determined by FSA and may be based on the number of acres and the degree of erosion hazard for the area in violation, as determined by NRCS, or upon such other factors as FSA determines appropriate.

(v) Any person whose benefits are reduced in a crop year under paragraph (a)(5) of this section may be eligible for all of the benefits specified under § 12.4(d) and (e) for any subsequent crop year if, prior to the beginning of the subsequent crop year, NRCS determines that such person is actively applying a conservation plan according to the schedule specified in the plan on all highly erodible land planted to an agricultural commodity or designated as conservation use.

\* \* \* \* \*

(7) *Technical and minor violations.* Notwithstanding any other provisions of this part, a reduction in benefits in an amount commensurate with the seriousness of the violation, as determined by FSA, and consistent with paragraph (a)(5)(iv) of this section, will be applied if NRCS determines that a violation involving highly erodible land that would otherwise lead to a loss of benefits is both of the following:

(i) Technical and minor in nature; and  
(ii) Has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation occurred.

(b) \* \* \*

(5) *Good faith violations.* (i) A person who is determined under § 12.4 of this part to be ineligible for benefits as the result of the production of an agricultural commodity on a wetland converted after December 23, 1985, or as the result of the conversion of a wetland after November 28, 1990, may regain eligibility for benefits if all of the following apply:

(A) FSA determines that such person acted in good faith and without the intent to violate the wetland provisions of this part; and

(B) NRCS determines that the person is implementing all practices in a mitigation plan within an agreed-to period, not to exceed one year; and

(C) The good faith determination of the FSA county or State committee has been reviewed and approved by the applicable State Executive Director, with the technical concurrence of the State Conservationist; or district director, with the technical concurrence of the area conservationist.

\* \* \* \* \*

■ 5. In addition to the amendments set forth above, in the following places in part 12 remove the words “functions and values” and add in their place the words “values, acreage, and functions”:

- a. § 12.1(b)(4),
- b. § 12.4(c) each time it appears,
- c. § 12.5(b)(1)(iii)(D), (b)(1)(vi)(A), (b)(1)(vi)(B), and (b)(4)(i) introductory text, (b)(4)(i)(E), (b)(4)(i)(F), (b)(4)(ii), and (b)(4)(iii).
- d. § 12.31(d) in the final sentence only, and
- e. § 12.33(a).

Dated: December 16, 2011.

**Thomas J. Vilsack,**  
Secretary.

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 303, 317, 319, and 381

[Docket No. FSIS-2011-0024]

RIN 0583-AB02

### Food Ingredients and Sources of Radiation Listed or Approved for Use in the Production of Meat and Poultry Products; Technical Amendment

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This document contains technical amendments to the final labeling regulations that were published in the **Federal Register** on December 23, 1999. The regulations related to harmonizing and improving the efficiency of the procedures used by the Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) for reviewing and listing the food ingredients and sources of radiation listed or approved for use in the production of meat and poultry products.

**DATES:** December 30, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Victoria Levine, Program Analyst, Policy Issuance Division, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 720–5627; Fax (202) 690–0486.

**SUPPLEMENTARY INFORMATION:****Background**

The regulations that are the subject of these technical amendments were published on December 23, 1999, in a final rule titled “Food Ingredients and Sources of Radiation Listed or Approved for Use in the Production of Meat and Poultry Products” (64 FR 72168). Among other things, this final rule consolidated various existing regulations on food ingredients and sources of radiation into a single new part, 9 CFR part 424, applicable to both meat and poultry establishments. Specifically, it combined the separate listings of food ingredients approved for use in meat and poultry products contained in 9 CFR 318.7 and 9 CFR 381.147 into a single table (9 CFR 424.21(c)). FSIS then removed §§ 318.7 and 381.147 from the meat and poultry products inspection regulations. The Agency did not, however, replace all of the references to §§ 318.7 and 381.147 contained in the meat and poultry product inspection regulations with a reference to § 424.21(c), the correct citation.

As published, the final regulations contain this error in several locations and thus needs to be corrected. Therefore, FSIS is replacing all references to §§ 318.7 and 381.147 contained in the meat and poultry product inspection regulations with a reference to the correct section, § 424.21(c).

**List of Subjects in 9 CFR Parts 303, 317, 319, and 381**

Food grades and standards, Food labeling, Food packaging, Meat inspection, Poultry products.

Accordingly, 9 CFR parts 303, 317, 319, and 381 are corrected by making the following correcting amendments:

**PART 303—EXEMPTIONS**

- 1. The authority citation for part 303 continues to read as follows:

**Authority:** 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

- 2. In § 303.1, revise paragraph (b)(1) of to read as follows:

**§ 303.1 Exemptions.**

\* \* \* \* \*

(b)(1) The exempted custom prepared products shall be prepared and handled in accordance with the provisions of §§ 318.5, 318.6, 318.10, 381.300 through 318.311 of this subchapter and § 424.21 of subchapter E, and shall not be adulterated as defined in paragraph 1(m) of the Act. The provisions of §§ 318.5, 318.6, 318.10, and 318.300 through 318.311 related to inspection or supervision of specified activities or other action by an inspection program employee and the provisions of § 318.6(b)(9) and (10) shall not apply to the preparation and handling of such exempted products.

\* \* \* \* \*

**PART 317—LABELING, MARKING DEVICES, AND CONTAINERS**

- 3. The authority citation for part 317 continues to read as follows:

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

- 4. In § 317.2, revise paragraph (f)(1)(vi)(B) to read as follows:

**§ 317.2 Labels: definition; required features.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(vi) \* \* \*

(B) Such ingredients may be adjusted in the product formulation without a change being made in the ingredients statement on the labeling, provided that the adjusted amount complies with part 319 of this subchapter and with § 424.21 of subchapter E, and does not exceed the amount shown in the quantifying statement. Any such adjustments to the formulation shall be provided to the inspector-in-charge.

\* \* \* \* \*

**PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION**

- 5. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 138f, 450; 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, 2.53.

- 6. In § 319.181, revise the second and third sentences to read as follows:

**§ 319.181 Cheesefurters and similar products.**

\* \* \* They may contain binders and extenders as provided in § 424.21(c) of subchapter E. Limits on use as provided in § 424.21 are intended to be exclusive of the cheese constituent. \* \* \*

- 7. In § 319.281, revise the first sentence of paragraph (b)(9) to read as follows:

**§ 319.281 Bockwurst.**

\* \* \* \* \*

(b) \* \* \*

(9) Binders and extenders may be added as provided in § 424.21(c) of subchapter E. \* \* \*

\* \* \* \* \*

- 8. R In § 319.300, revise the last sentence to read as follows:

**§ 319.300 Chili con carne.**

\* \* \* The mixture may contain binders and extenders as provided in § 424.21(c) of subchapter E.

- 9. In § 319.301, revise the last sentence to read as follows:

**§ 319.301 Chili con carne with beans.**

\* \* \* The mixture may contain binders and extenders as provided in § 424.21(c) of subchapter E.

- 10. In § 319.306, revise the last sentence to read as follows:

**§ 319.306 Spaghetti with meatballs and sauce, spaghetti with meat and sauce, and similar products.**

\* \* \* Meatballs may be prepared with farinaceous material and with other binders and extenders as provided in § 424.21(c) of subchapter E.

**PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS**

- 11. The authority citation for part 381 continues to read as follows:

**Authority:** 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

- 12. In § 381.118, revise the first sentence in paragraph (a)(2)(ii) to read as follows:

**§ 381.118 Ingredients statement.**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(ii) Such ingredients may be adjusted in the product formulation without a change being made in the ingredients statement on the labeling, provided that the adjusted amount complies with subpart P of this part and § 424.21(c) of subchapter E, and does not exceed the amount shown in the quantifying statement. \* \* \*

\* \* \* \* \*

- 13. In § 381.129, revise paragraph (d) to read as follows:

**§ 381.129 False or misleading labeling or containers.**

\* \* \* \* \*

(d) When sodium alginate, calcium carbonate, lactic acid, and calcium lactate are used together in a dry binding matrix in ground or formed poultry products, as permitted in

§ 424.21(c) of subchapter E, there shall appear on the label contiguous to the product name a statement to indicate the use of sodium alginate, calcium carbonate, lactic acid, and calcium lactate.

\* \* \* \* \*

■ 14. In § 381.133, revise paragraph (b)(9)(xviii) to read as follows:

**§ 381.133 Generically approved labeling.**

\* \* \* \* \*

(b) \* \* \*

(9) \* \* \*

(xviii) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in the quantity of ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in subpart P of this part and § 424.21(c) of subchapter E;

\* \* \* \* \*

Done in Washington, DC, on December 23, 2011.

**Alfred V. Almanza,**  
Administrator.

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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 52**

**RIN 3150-AI81**

[NRC-2010-0131]

**AP1000 Design Certification Amendment**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or Commission) is amending its regulations to certify an amendment to the AP1000 standard plant design. The amendment replaces the combined license (COL) information items and design acceptance criteria (DAC) with specific design information, addresses the effects of the impact of a large commercial aircraft, incorporates design improvements, and increases standardization of the design. This action is necessary so that applicants or licensees intending to construct and operate an AP1000 design may do so by referencing this regulation (AP1000 design certification rule (DCR)), and need not demonstrate in their applications the safety of the certified design as amended. The applicant for

this amendment to the AP1000 design is Westinghouse Electric Company, LLC (Westinghouse).

**DATES:** The effective date of this rule is December 30, 2011. The incorporation by reference of certain material specified in this regulation is approved by the Director of the Office of the Federal Register as of December 30, 2011. The applicability date of this rule for those entities who receive actual notice of this rule is the date of receipt of this rule.

**ADDRESSES:** You can access publicly available documents related to this action (see Section VI. Availability of Documents) using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-(800) 397-4209, (301) 415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- *Federal Rulemaking Web site:* Public comments and supporting materials related to this final rule can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2010-0131. Address questions and concerns regarding NRC dockets to Carol Gallagher; telephone at (301) 492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Serita Sanders, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone at (301) 415-2956; email: [serita.sanders@nrc.gov](mailto:serita.sanders@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Summary of Analysis of Public Comments on the AP1000 Proposed Rule
  - A. Overview of Public Comments
  - B. Description of Key Structures of the AP1000 Design
  - C. Significant Public Comments and Overall NRC Responses
- III. Discussion
  - A. Technical Evaluation of Westinghouse Amendment to the AP1000 Design
  - B. Changes to Appendix D

C. Immediate Effectiveness of Final Rule: Provision of Actual Notice to Southern Nuclear Operating Company

**IV. Section-by-Section Analysis**

- A. Scope and Contents (Section III)
- B. Additional Requirements and Restrictions (Section IV)
- C. Applicable Regulations (Section V)
- D. Issue Resolution (Section VI)
- E. Processes for Changes and Departures (Section VIII)
- F. Records and Reporting (Section X)
- V. Agreement State Compatibility
- VI. Availability of Documents
- VII. Voluntary Consensus Standards
- VIII. Finding of No Significant Environmental Impact: Availability
- IX. Paperwork Reduction Act Statement
- X. Regulatory Analysis
- XI. Regulatory Flexibility Act Certification
- XII. Backfitting and Issue Finality
- XIII. Congressional Review Act

**I. Background**

Title 10 of the Code of Federal Regulations (10 CFR), Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," Subpart B, presents the process for obtaining standard design certifications. Section 52.63, "Finality of standard design certifications," provides criteria for determining when the Commission may amend the certification information for a previously certified standard design in response to a request for amendment from any person.

The NRC originally approved the AP1000 design certification in a final rule in 2006 (71 FR 4464; January 27, 2006). The final AP1000 DCR incorporates by reference Revision 15 of the design control document (DCD) (ADAMS Accession No. ML053460400), which describes the AP1000 certified design. During its initial certification of the AP1000 design, the NRC issued a final safety evaluation report (FSER) for the AP1000 as NUREG-1793, "Final Safety Evaluation Report Related to Certification of the AP1000 Standard Design," in September 2004 (ADAMS Accession No. ML043570339) and Supplement No. 1 to NUREG-1793 (ADAMS Accession No. ML053410203).

From March 2006 through May 2007, NuStart Energy Development, LLC (NuStart)<sup>1</sup> and Westinghouse provided the NRC with a number of technical reports (TRs) for pre-application review of a possible amendment to the approved AP1000 certified design, in order to: (1) close specific, generically applicable COL information items (information to be supplied by COL

<sup>1</sup> The NuStart member companies are: Constellation Generation Group, LLC, Duke Energy Corporation, EDF-International North America, Inc., Entergy Nuclear, Inc., Exelon Generation Company, LLC, Florida Power and Light Company, Progress Energy, and Southern Company Services, Inc.