

Area of Application. Survey Area Plus

Pennsylvania:

Bradford

Carbon

Lycoming (Excluding Allenwood Federal
Prison Camp)

Pike

Sullivan

Susquehanna

Wayne

Wyoming

* * * *

[FR Doc. 03-215 Filed 1-3-03; 8:45 am]

BILLING CODE 6325-39-P

**OFFICE OF PERSONNEL
MANAGEMENT****5 CFR Part 532**

RIN 3206-AJ63

**Prevailing Rate Systems; Change in
Federal Wage System Survey Job****AGENCY:** Office of Personnel
Management.**ACTION:** Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule that will allow the Department of Defense to use the Maintenance Mechanic Federal Wage System (FWS) survey job without having to seek OPM's approval on a case-by-case basis. This change will improve the local FWS wage survey process.

DATES: Effective Date February 5, 2003.

FOR FURTHER INFORMATION CONTACT: Chenty I. Carpenter, (202) 606-2848, FAX: (202) 606-0824, or e-mail cicarpen@opm.gov.

SUPPLEMENTARY INFORMATION: On August 1, 2002, the Office of Personnel Management (OPM) issued a proposed rule to permit the Department of Defense (DOD) to use the Maintenance Mechanic Federal Wage System (FWS) survey job on an optional basis without having to seek OPM's advance approval. The Maintenance Mechanic survey job is now used routinely in many FWS wage areas because of changes in the structure of both Federal and private sector maintenance work. The proposed rule provided a 30-day period for public comment, during which OPM received no comments.

OPM's regulations contain required and optional survey jobs. If a particular survey job does not appear on either list, but is needed for a local wage survey, an agency must request OPM's written approval. The Federal Prevailing Rate Advisory Committee (FPRAC) established a Survey Job Work Group (SJWG) to review FWS survey job

descriptions. The SJWG recommended that OPM add the Maintenance Mechanic survey job to the list of optional FWS survey jobs. Adding the Maintenance Mechanic survey job to the list of optional survey jobs would enable DOD to use the survey job at its discretion without having to ask OPM for prior approval. This will allow DOD to save time when conducting FWS wage surveys. FPRAC agreed with its working group and recommended that OPM make this change.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

**Executive Order 12866, Regulatory
Review**

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kay Coles James,
Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

**PART 532—PREVAILING RATE
SYSTEMS**

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; "532.707 also issued under 5 U.S.C. 552.

§ 532.217 [Amended]

2. In § 532.217, paragraph (c) is amended by adding the job "Maintenance Mechanic" and grade "10" after Television Station Mechanic. [FR Doc. 03-216 Filed 1-3-03; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF AGRICULTURE**Food Safety and Inspection Service****9 CFR Parts 317 and 381**

[Docket No. 02-0251F]

RIN 0583-AC93

**Food Labeling; Nutrient Content
Claims, Definition of the Term: Healthy****AGENCY:** Food Safety and Inspection
Service, USDA.**ACTION:** Interim final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending until January 1, 2006, the effective date for the requirements: That individual meat and poultry products bearing the claim "healthy" (or any other derivative of the term "health") contain no more than 360 milligrams (mg) of sodium; and that meal-type products bearing the claim "healthy" (or any other derivative of the term "health") contain no more than 480 mg of sodium.

DATES: Effective date: January 6, 2003.

Comment date: Written comments must be received February 5, 2003.

ADDRESSES: Submit written comments to the FSIS Docket Clerk, Docket #02-0251F, 300 12th Street, SW., Room 102 Cotton Annex Building, Washington, DC 20250-3700. All comments submitted in response to this interim final rule will be made available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Post, Ph.D., Director, Labeling and Consumer Protection Staff, Office of Policy and Program Development, Food Safety and Inspection Service, 300 12th Street, SW., Room 602 Cotton Annex Building, Washington, DC 20250-3700, (202) 205-0279.

SUPPLEMENTARY INFORMATION:**Background**

On May 10, 1994, FSIS published a final rule to establish a definition of the term "healthy" or any other derivative of the term "health" and similar terms on meat and poultry product labeling (59 FR 24220).¹ Under 9 CFR 317.363(b)(3) and 381.463(b)(3), after November 10, 1997, an individual meat or poultry product qualifying to use the term "healthy" or any other derivative

¹ Final Rule, Nutrition Labeling; Use of "Healthy" and Similar Terms on Meat and Poultry Product Labeling, 59 FR 24220-24229, May 10, 1994. This document may be viewed in the FSIS Docket Room Monday through Friday from 8:30 a.m. until 4:30 p.m., or accessed via the World Wide Web at <http://www.access.gpo.gov>.

of that term on its label, or in its labeling, must not contain more than 360 mg of sodium: (a) per reference amount customarily consumed (RACC); (b) per labeled serving size; and (c) per 50 grams (g) for products with reference amounts customarily consumed of 30 g or less or 2 tablespoons or less. Further, under 9 CFR 317.363(b)(3)(i) and 381.463(b)(3)(i), after November 10, 1997, a meal-type product qualifying to use the aforementioned term or any other derivative of the term on its label or in its labeling must not contain more than 480 mg of sodium per labeled serving size.

During the initial 24 months of the requirement's implementation date, which is defined as the time period prior to November 10, 1997, the maximum sodium level for individual meat and poultry products would be allowed to reach 480 mg, and the maximum sodium level for meal-type products would be allowed to reach 600 mg. This time period and its correlating maximum levels are referred to as the "first-tier sodium level." After November 10, 1997, the maximum sodium level for individual meat and poultry products would be decreased to 360 mg, and the maximum sodium level for meal-type products would be decreased to 480 mg. This time period and its correlating maximum levels are referred to as the "second-tier sodium level."

Within the same **Federal Register** publication, the Food and Drug Administration (FDA) published a final rule (59 FR 24232) to define the term "healthy" under section 403(r) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 343(r)).² FDA's rule established the same sodium levels associated with the use of the "healthy" claim that FSIS' rule established for two separate timeframes. However, the timeframes in FDA's rule differed from those established by FSIS' rule.

On December 17, 1996, ConAgra, Inc., petitioned FSIS to "eliminate the sliding scale sodium requirement for foods labeled 'healthy' by eliminating the entire second-tier levels of 360 mg sodium requirement for individual foods and 480 mg sodium for meal-type products."³ In response to the petition,

FSIS published an interim final rule on February 13, 1998 (63 FR 7279), which amended §§ 317.363(b)(3) and 381.463(b)(3) by extending the effective date for the second-tier sodium levels (360 mg for individual meat and poultry products and 480 mg for meal-type products) associated with the term "healthy" until January 1, 2000.⁴ The Agency extended the effective date for the following reasons: (1) To allow time for FSIS to reevaluate the standard, including the data contained in ConAgra's petition and any additional data that the Agency received; (2) to conduct any necessary rulemaking; and finally (3) to allow time for industry to respond to the rule or to any change in the rule that may have resulted from the Agency's reevaluation.

FDA also received a petition from ConAgra, Inc., requesting that the second-tier sodium levels associated with use of the term "healthy" be removed from the regulations. In response to this petition, FDA announced a stay of the provisions relating to the lower sodium standards until January 1, 2000 (62 FR 15390).⁵

In its interim final rule, FSIS asked the public for data and comments in regard to the second-tier sodium levels in the "healthy" definition and other approaches to reduce the amount of sodium in meat and poultry products labeled "healthy." FSIS received 20 responses to the February 13, 1998, interim final rule, which presented strong and opposing views on whether the Agency should let the second-tier sodium levels take effect, and provided a significant amount of data relating to the use of the term "healthy." Based on the information available, the Agency concluded that, in some cases, the second-tier sodium levels may be overly restrictive, thereby eliminating a term that may potentially assist consumers in maintaining a healthy diet. Accordingly, FSIS published a subsequent interim final rule on December 28, 1999 (64 FR 72490), further extending the second-tier sodium levels' effective date until

January 1, 2003.⁶ Similarly, FDA published a final rule (64 FR 12886), which extended the stay on their provisions in regard to the lower sodium levels through January 1, 2003, as well.⁷

FSIS received 8 responses to its December 28, 1999, interim final rule. Six responses conveyed support for extending the effective date of the second-tier sodium level until adequate medical and technological research can be conducted to demonstrate that lowering the maximum amount of sodium used to produce these types of products will contribute to or enhance a "healthy" diet. The commenters stated that a "healthy" diet can not be solely defined or maintained by consuming lower amounts of sodium. Instead, a "healthy" diet must rely on maximizing and minimizing a consumer's intake of all nutrients, including sodium, based on the individuality of the consumer. In addition, the commenters stated that lowering the sodium level would affect the products' palatability, which would negatively impact the demand for such products. Further, consumers would be forced to add salt to these products to enhance their taste prior to consumption, which negates the premise of lowering sodium intake as a means of lowering the health risks associated with consuming high levels of sodium. One commenter asserted that establishing a maximum level of sodium contained in meat and poultry products labeled as "healthy" does not correlate to the definition of "healthy" with respect to positive health benefits. Another commenter stated that the lowest achievable sodium level should be used as the maximum limit when producing individual or meal-type meat and poultry products, and that FSIS should proceed with the intended effective date for the second-tier sodium level requirements.

As of this date, FSIS and FDA are continuing their efforts: (1) To reevaluate appropriate sodium levels associated with the use of the term "healthy"; and (2) to fully consider all options that preserve the public health

Notice, Directives, and **Federal Register** Publications section.

⁴ Interim Final Rule, Food Labeling: Nutrient Content Claims, Definition of Term: Healthy, 63 FR 7279-7281, February 13, 1998. This document may be viewed in the FSIS Docket Room Monday through Friday from 8:30 a.m. until 4:30 p.m., or accessed via the World Wide Web at <http://www.fsis.usda.gov/FOIA/popular.htm> under the Notices, Directives, and **Federal Register** Publications section.

⁵ Final Rule; partial stay, Food Labeling: Nutrient Content Claims, Definition of Term: Healthy, 62 FR 15390-15391, April 1, 1997. This document may be accessed via the World Wide Web at <http://www.access.gpo.gov>.

⁶ Interim Final Rule, Food Labeling: Nutrient Content Claims, Definition of Term: Healthy, 64 FR 72490-72491, December 28, 1999. This document may be viewed in the FSIS Docket Room Monday through Friday from 8:30 a.m. until 4:30 p.m., or accessed via the World Wide Web at <http://www.fsis.usda.gov/FOIA/popular.htm> under the Notices, Directives, and **Federal Register** Publications section.

⁷ Final Rule; extension of partial stay, Food Labeling: Nutrient Content Claims, Definition of Term: Healthy; Extension of Partial Stay, 64 FR 12886, March 16, 1999. This document may be accessed via the World Wide Web at <http://www.access.gpo.gov>.

² Final Rule, Food Labeling: Nutrient Content Claims, Definition of Term: Healthy, 59 FR 24232-24249, May 10, 1994. This document may be accessed via the World Wide Web at <http://www.access.gpo.gov>.

³ FSIS Petition #96-08, ConAgra, Inc.; received December 17, 1996. This document may be viewed in the FSIS Docket Room Monday through Friday from 8:30 a.m. until 4:30 p.m., or accessed via the World Wide Web at <http://www.fsis.usda.gov/FOIA/popular.htm> as a related document under the

intent while providing manufacturers with the opportunity to use the term on food labeling consistently with dietary guidelines. Therefore, as the agencies consider whether alternative levels may be more appropriate, it would be contrary to the public interest to require manufacturers to comply with the second-tier sodium levels within the "healthy" definition by the current effective date of January 1, 2003. Moreover, FSIS is taking this action so that its labeling regulations remain consistent with those promulgated by FDA. In the **Federal Register** dated May 8, 2002, FDA further extended the partial stay on their provisions to coincide with the aforementioned effective date of January 1, 2006 (67 FR 30795).⁸ Accordingly, further extending the second-tier sodium level requirements' effective date for meat and poultry products is warranted.

Executive Order 12988

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA and the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA and PPIA, or, in the case of imported articles, that are not at such an establishment, after their entry into the United States.

This interim final rule is not intended to have retroactive effect.

If this interim final rule is adopted, administrative proceedings will not be required before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this interim final rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or PPIA.

Executive Order 12866 and the Regulatory Flexibility Act

This interim final rule has been determined to be non-significant and was not reviewed by the Office of Management and Budget under Executive Order 12866.

The Administrator has made an initial determination that this interim 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). This interim final rule will impose no new requirements on small entities.

FSIS is initiating this action so that its labeling regulations remain consistent with those promulgated by FDA. Moreover, FSIS needs time to conclude its reevaluation of the impact imposed by further reducing limits on sodium contents of foods labeled as "healthy" to determine if the costs of such an action exceed the benefits. The petitioner requesting the extension presented data to support that lowering the sodium content on foods labeled as "healthy" could result in fewer "healthy" foods being consumed or consumers adding table salt to improve the products' palatability. In addition, the petitioner suggested that lack of available substitutes for sodium would impair the industry's ability to continue manufacturing "healthy" foods as currently defined. However, information collected by the Agency continues to support our belief that it is feasible to produce individual meat and poultry products with a sodium level of 360 mg or less at this time.

FSIS will use the time allotted by the extension to initiate the appropriate rulemaking, and respond to its comments. Industry's constituents will be afforded ample time to reformulate their products (a critical consideration since product reformulation may not be a simple task for products such as hot dogs) and modify labeling.

Five commenters to the December 28, 1999, FSIS interim final rule agreed with the petitioner that lowering the sodium level would affect the products' palatability. One commenter posited that establishing a maximum level of sodium contained in meat and poultry products labeled as "healthy" does not correlate to the definition of "healthy" with respect to positive health benefits. Another commenter supported the implementation of the second-tier sodium level with the intended effective date. The last commenter stated that the health risk focus should not be directed towards sodium, and the effective date should be extended to allow FSIS "time to conduct a review of the science on

this issue to establish the basis for removing altogether any sodium-related disqualification for the term 'healthy'."

FSIS continues to believe that further health benefits could be achieved by lowering the sodium content of foods labeled as "healthy". However, the Agency needs time: (1) To conclude its reevaluation process in conjunction with FDA; and (2) to initiate the appropriate rulemaking. Therefore, as the agencies consider whether alternative levels may be more appropriate it would be contrary to the public interest to require manufacturers to comply with the lower sodium levels in the "healthy" definition by the current effective date of January 1, 2003.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedures Act (5 U.S.C. 553) it is the practice of the Administrator to offer interested parties the opportunity to comment on proposed regulations. However, the extended effective date in this interim final rule does not establish any new rules. In addition, this interim final rule must be published in the **Federal Register** prior to January 1, 2003, because that is the current effective date in the regulations. Therefore, the Administrator has determined that publication of a proposed rule is impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Administrator waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Paperwork Requirements

There is no paperwork associated with this action.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice; FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv

⁸ Final Rule; extension of partial stay, Food Labeling; Nutrient Content Claims, Definition of Sodium Levels for the Term "Healthy;" Extension of Partial Stay, 67 FR 30795, May 8, 2002. This document may be accessed via the World Wide Web at <http://www.access.gpo.gov>.

consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720-9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS Web site at <http://www.fsis.usda.gov/oa/update/update.htm>. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection, Nutrition.

9 CFR Part 381

Food labeling, Nutrition, Poultry and poultry products.

For the reasons discussed in the preamble, FSIS is amending parts 317 and 381 of the Federal meat and poultry products inspection regulations as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority for part 317 continues to read as follows:

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

§ 317.363 [Amended]

2. Section 317.363 is amended by removing the phrase "through January 1, 2003" in paragraph (b)(3) introductory text and (b)(3)(i) and replacing it with "through January 1, 2006".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority for part 381 continues to read as follows:

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

§ 381.463 [Amended]

4. Section 381.463 is amended by removing the phrase "through January 1, 2003" in paragraph (b)(3) introductory text and (b)(3)(i) and replacing it with "through January 1, 2006".

Done at Washington, DC, on: December 30, 2002.

Dr. Garry L. McKee,
Administrator.

[FR Doc. 02-33150 Filed 12-31-02; 3:25 pm]

BILLING CODE 3410-DM-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AG74

List of Approved Spent Fuel Storage Casks: Standardized Advanced NUHOMS®-24PT1; Addition

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add the Standardized Advanced NUHOMS® System to the list of approved spent fuel storage casks. The Standardized Advanced NUHOMS® System has improved shielding and the ability to withstand a higher seismic spectra than the Standardized NUHOMS® System; otherwise, the cask designs are the same. This amendment allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

EFFECTIVE DATE: This final rule is effective on February 5, 2003.

FOR FURTHER INFORMATION CONTACT: Jayne McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that "[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." Section 133 of the NWPA states, in part, that "[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the

Commission under Section 218(a) for use at the site of any civilian nuclear power reactor."

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR part 72 entitled, "General License for Storage of Spent Fuel at Power Reactor Sites" (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72, entitled "Approval of Spent Fuel Storage Casks," containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs.

Discussion

This rule will add the Standardized Advanced NUHOMS® System (Standardized Advanced NUHOMS®-24PT1) to the list of approved cask designs. Following the procedures specified in 10 CFR 72.230 of subpart L, Transnuclear, Inc., (TN) submitted an application for NRC approval together with the Safety Analysis Report (SAR) entitled, "Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel." The NRC evaluated the TN submittal and issued a preliminary Safety Evaluation Report (PSER) and a proposed Certificate of Compliance (CoC) for the Standardized Advanced NUHOMS® System. The NRC published a proposed rule in the **Federal Register** (67 FR 6203; February 11, 2002) to add the Standardized Advanced NUHOMS®-24PT1 cask system to the listing in 10 CFR 72.214. The comment period ended on April 29, 2002. Seven comment letters were received on the proposed rule.

Based on its review and analysis of public comments, the NRC staff has determined that no modifications will be made to the proposed CoC, including its appendices, the Technical Specifications, and the Approved Contents and Design Features, for the Standardized Advanced NUHOMS® System. No modifications will be made to the PSER.

The NRC finds that the Standardized Advanced NUHOMS®-24PT1 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of part 72. Thus, use of the TN Standardized Advanced NUHOMS®-24PT1 cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the Standardized Advanced NUHOMS®-24PT1 cask system under