



Docket No. FSIS-2020-0013

Comment re: Removal of 9 CFR 355: Certified Products for Dogs, Cats, and Other Carnivora; Inspection, Certification, and Identification as to Class, Quality, Quantity, and Condition

On behalf of pet food consumers, Association for Truth in Pet Food respectfully requests FSIS to maintain 9 CFR 355.

We disagree with the following statement provided on Regulations.gov proposed rule to remove 9 CFR 355: *“Further, the fact that both USDA and the Food and Drug Administration (FDA) inspect pet food has led to industry and consumer confusion, and both agencies agree that stakeholders will benefit from the simplification of Federal jurisdiction over pet food.”*

Being directly involved with pet food consumers, we find there is no confusion to which agency regulates pet food. Most pet owners are fully aware that pet food falls under FDA jurisdiction. Pet owners are well aware that all pet food recall notices originate from FDA, and all pet food safety alerts originate from FDA. The confusion consumers experience are due to how FDA regulates pet food, not the fact that USDA could perform voluntary (at the manufacturers request) inspections.

Very different from USDA's Certified Pet Food program, the FDA allows pet food products to violate the Federal Food, Drug, and Cosmetic Act with no disclosure or warning to consumers. Prior to the Food Safety Modernization Act, FDA officials were guided by Compliance Policies CPG Sec. 675.400 – Rendered Animal Feed Ingredients and CPG Sec. 690.300 – Canned Pet Food. Both of these FDA Policies allowed pet food to utilize ingredients sourced from *“diseased animals and animals which have died otherwise than by slaughter”*. The FDA withdrew these policies in April 2019, however the agency did not withdraw their allowed use in pet food. At the same time FDA withdrew the Compliance Policies the agency stated (in response to Citizen Petition Docket FDA-2016-P-3578): *“we do not believe that the use of diseased animals or animals that died otherwise than by slaughter to make animal food poses a safety concern and we intend to continue to exercise enforcement discretion.”* The FDA also refused to require pet food labels to disclose the use of/inclusion of adulterated ingredients in the same Citizen Petition response.

The USDA definition of pet food meat and poultry include the requirement to be inspected and passed. The FDA definition of meat and poultry does NOT require the ingredients to be inspected and passed. Condemned animal material is welcomed in pet food per FDA definitions with no warning or disclosure to pet owners.

USDA definitions of pet food ingredients are public information, FDA definitions of pet food ingredients are copyright protected by the private organization Association of American Feed Control Officials.

The confusion pet owners experience is directly related to how FDA regulates pet food (not who regulates pet food). Pet owners are confused how a federal agency can openly and directly allow adulterated pet foods to be sold in interstate commerce. Pet owners are confused why a tax dollar supported federal agency ignores the very laws they are charged with enforcing, choosing to ignore the health risks to pets while allowing industry to handsomely profit from the sale of adulterated pet foods.

We believe the reason FSIS has *“no firms currently paying for FSIS certification services for pet food”* is solely due to the challenges FDA partners intentionally put into place such as labeling requirements. Federally funded (through the Animal Feed Regulatory Program Standards) State regulatory partners of FDA accept ONLY FDA approved pet food labels. Section 355.32 provides requirements for certified products that most State regulatory authorities would not accept - putting manufacturers in between two different legal requirements. A simple resolve that would greatly benefit U.S. and foreign pet owners would be to update 9 CFR 355 to match FDA labeling requirements. (We emphasize the ONLY update needed is labeling, not quality standards.) If FSIS and FDA could agree to uniform labeling requirements, we firmly believe many manufacturers would request certification. And pet owners would benefit from the visual acknowledgment to quality with the USDA inspection seal on pet food labels.



Pet owners desperately need FSIS to continue to inspect pet food for certification. Without FSIS pet owners are only left with a federal agency that allows illegal waste to be disposed of into pet foods, a federal agency that ignores law, and a federal agency that believes pet owners do NOT have a right to know what's in their pet's food. We ask you to update the labeling requirements of 9 CFR 355 and keep it in place. With the USDA Certified Pet Food program in place, pet owners can hold onto hope that one day pet foods will actually be regulated as 'food'. Without it, we are left defenseless.

On behalf of pet food consumers,

Susan Thixton
Association for Truth in Pet Food