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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2013-0038]

Best Practices Guidance for Controlling Listeria monocytogenes
in Retail Delicatessens

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability; request for public comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of the "FSIS Best Practices Guidance for Controlling Listeria monocytogenes (Lm) in Retail Delicatessens." The best-practices guidance discusses steps that retailers can take to prevent listeriosis associated with the consumption of certain ready-to-eat (RTE) foods that are prepared or sliced in retail delicatessens (delis) and consumed in the home, such as deli meats and deli salads. FSIS encourages retailers to review the guidance and evaluate the effectiveness of their retail practices and intervention strategies in reducing the risk of listeriosis to consumers from RTE meat and poultry deli products. The Agency will consider all comments submitted and will revise the best-practices guidance as necessary.

DATES: Comments on the best-practices guidance should be submitted on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A downloadable version of the compliance guide is available to view and print at

<http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index>. No hard copies of the best-practices guidance have been published.

FSIS invites interested persons to submit comments on the best-practices guidance. Comments on the best-practices guidance may be submitted by either of the following methods:

- Federal eRulemaking Portal: This website provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- Mail, including CD-ROMs, etc.: Send to Docket Room Manager, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW, Mailstop 3782, Room 8-163B, Washington, DC 20250-3700.

- Hand-or courier-delivered submittals: Send to Docket Room Manager, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 355 E. Street SW, Room 8-163B, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2013-0038. Comments received in response to this notice will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

DOCKET: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW, Room 8-164, Washington, DC 20250-3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205-0495, or by Fax: (202) 720-2025.

SUPPLEMENTARY INFORMATION:

Lm is a bacterium that is found in moist environments, soil, and decaying vegetation and can persist along the food continuum. Transfer of the bacterium from the environment (e.g., deli cases, slicers, and utensils), employees, or contaminated food products is a particular hazard of concern in RTE foods, including meat and poultry products, because they generally receive no further processing for food safety before consumption. Listeriosis is a serious infection usually caused by eating food contaminated with Lm.

To help minimize the public health burden of listeriosis, FSIS and the U.S. Food and Drug Administration (FDA) conducted an interagency risk assessment to better understand the risk of foodborne illness associated with eating certain RTE foods prepared in retail delis and developed recommendations for changes in current practices that may improve the safety of those products. On May 13, 2013, FSIS and FDA made their findings available to the public in the draft "Interagency Risk Assessment— Listeria monocytogenes in Retail Delicatessens" (Interagency Retail Lm Risk Assessment) (78 FR 27939; May 13, 2013). FSIS and FDA finalized the risk assessment in September 2013, and the updated document is available on FSIS's Web site at <http://www.fsis.usda.gov/wps/portal/fsis/topics/science/risk-assessments>.

The key findings of the Interagency Retail Lm Risk Assessment include the following:

- Storage temperature. If all refrigerated RTE foods are stored at 41 degrees Fahrenheit (5° C) or below, as the 2013 FDA Food Code (3-501.16(A)(2)) recommends, at least nine percent of predicted listeriosis illnesses caused by contaminated deli products prepared or sliced in the retail deli could be prevented.
- Growth inhibitors. If all deli products that support Lm growth were reformulated to include a growth inhibitor, 96

percent of predicted listeriosis illnesses caused by RTE products prepared or sliced in the retail deli could be prevented.

- Control Cross-contamination. The predicted risk of listeriosis dramatically increases in retail delis as a result of cross-contamination. Slicers, in particular, are key sources of cross-contamination in retail delis. Eliminating all points of cross-contamination in the deli (including slicers) would decrease the predicted risk of illness from the consumption of RTE products prepared or sliced in the retail deli by approximately 34 percent.

- Control Contamination at its Source. Increased levels of Lm from incoming products and the environment (including potential niches), directly increase the predicted risk of illness. Therefore, elimination of environmental niches in the deli area will reduce the predicted risk of listeriosis from the consumption of RTE products prepared or sliced in the retail deli. Additionally, if levels of Lm on RTE foods (including foods that do not support the growth of Lm) that the retail deli receives from processing establishments were reduced by half, approximately 22 percent of the predicted listeriosis illnesses caused by contaminated deli products could be prevented.

- Continue Sanitation. Sanitation practices that eliminate Lm from food-contact surfaces reduce the predicted Lm levels in

the deli area. Employees not wearing gloves while serving customers increases the predicted risk of listeriosis from the consumption of RTE products prepared or sliced in the retail deli by approximately five percent.

Using these key findings along with available scientific knowledge, the 2013 FDA Food Code, and lessons learned from controlling Lm in FSIS-inspected meat and poultry processing establishments, FSIS developed the "FSIS Best Practices Guidance for Controlling Listeria monocytogenes (Lm) in Retail Delicatessens," which provides practical recommendations that retailers can use to control Lm contamination and outgrowth in the deli. Retailers can use the best-practices guidance to help ensure that RTE meat and poultry products in the deli area are handled under sanitary conditions and are not adulterated under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) (see 21 U.S.C. 623(d) and 464(e)). While these practices are specifically designed to control Lm, they also may help control other foodborne pathogens that may be introduced into the retail deli environment and other facilities where consumers take possession of food.

The best practices are grouped in four sections: (1) product and product handling, (2) cleaning and sanitizing, (3) facility and equipment controls, and (4) employee practices.

Practices identified by the Interagency Retail Lm Risk Assessment that can significantly decrease the predicted risk of foodborne illness are highlighted in each section. The other practices that are based on scientific knowledge or lessons learned by FSIS are also included to help retailers increase Listeria control in the deli area. A self-assessment tool is provided for deli operators to help them identify the best practices they are using and to assess the need to adopt others. By following the best practices in the guidance and the 2013 FDA Food Code, retailers can help ensure that RTE products are not adulterated with Lm, and that the potential for listeriosis is decreased.

FSIS has posted the best-practices guidance on its Web page (<http://www.fsis.usda.gov/wps/wcm/connect/29d51258-0651-469b-99b8-e986baee8a54/Controlling-LM-Delicatessens.pdf?MOD=AJPERES>) and is requesting comments on the guidance. It is important to note that the best-practices guidance does not replace the 2013 FDA Food Code or FSIS regulations. The best-practices guidance sets out recommendations rather than requirements. The Agency will consider all comments submitted and will revise the best-practices guidance as necessary.

USDA Nondiscrimination Statement

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Additional Public Notification

FSIS will announce this notice on-line through the FSIS Web page located at <http://www.fsis.usda.gov/federal-register>.

FSIS also will make copies of this Federal Register publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, Federal Register notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer

interest groups, health professionals and other individuals who have asked to be included. The Update is available on the FSIS Web page. Through the Listserv and the Web page, FSIS is able to provide information to a much broader and more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done in Washington, DC on: April 1, 2014.

Alfred V. Almanza,

Administrator.

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