



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-D-1752]

Public Availability of Lists of Retail Consignees to Effectuate Certain Human and Animal Food Recalls; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is announcing the availability of a final guidance for industry and FDA staff entitled "Public Availability of Lists of Retail Consignees to Effectuate Certain Human and Animal Food Recalls; Guidance for Industry and FDA staff." The guidance for industry and FDA staff describes how and when FDA intends to collect, compile, and publicize lists of retail consignees that may have received recalled foods. While FDA intends to focus on recalls where there is a reasonable probability that the use of, or exposure to, the food will cause serious adverse health consequences or death to humans or animals (Class I recalls), FDA may also publicize retail consignee lists for other food recalls as described in the guidance. FDA's goal is to publicize retail consignee lists for these food recalls where providing this additional information will be of the most use to consumers to help them identify recalled food and to determine whether that food is in their possession as effectively and quickly as possible.

DATES: The announcement of the guidance is published in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2018-D-1752 for "Public Availability of Lists of Retail Consignees to Effectuate Certain Human and Animal Food Recalls; Guidance for Industry and FDA Staff." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at

<https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at:

<https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration,

12420 Parklawn Dr., Element Building, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. See the SUPPLEMENTARY INFORMATION section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Chris Henderson, Office of Regulatory Affairs, Division of Operational Policy, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240-402-8186, Christopher.henderson@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and FDA staff entitled "Public Availability of Lists of Retail Consignees to Effectuate Certain Human and Animal Food Recalls." The guidance for industry and FDA staff describes how and when FDA intends to collect, compile, and publicize lists of retail consignees that may have received recalled foods. FDA's goal is to publicize retail consignee lists for these food recalls, especially those that are likely to be classified as Class I recalls, where providing this additional information will be of the most use to consumers to help them identify recalled food, and to determine whether that food is in their possession as effectively and quickly as possible.

In the *Federal Register* of September 27, 2018 (83 FR 48825), we announced a draft guidance for industry and FDA staff entitled "Public Availability of Lists of Retail Consignees to Effectuate Certain Human and Animal Food Recalls" and gave interested parties an opportunity to submit comments by November 26, 2018, for us to consider before beginning work on the final version of the guidance. We reviewed comments received and, where appropriate, made changes to the guidance based on these comments. The changes include a change to footnote seven of the guidance regarding restaurants, a statement that FDA intends to update the retail consignee lists as the information available to FDA develops, the removal of an example of food that may fit the criteria described in the guidance, and other nonsubstantive edits. The guidance announced in this notice finalizes the draft guidance dated September 2018.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents FDA's current thinking regarding publicizing lists of retail consignees to effectuate certain food recalls. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). Any collections of information under 21 CFR 7.46, 7.49, 7.53, 7.55, and 7.59 have been approved under OMB control number 0910-0249.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either <https://www.fda.gov/Safety/Recalls/default.htm> or <https://www.regulations.gov>.

Dated: November 16, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

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