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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 417

[Docket No. FSIS-2012-0007]

HACCP Plan Reassessment for Not-Ready-To-Eat Comminuted Poultry Products and Related Agency Verification Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending the comment period for the December 6, 2012, **Federal Register** document "HACCP Plan Reassessment for Not-Ready-to-Eat Comminuted Poultry Products and Related Agency Verification Procedures" until April 20, 2013. FSIS will also provide an additional 45 days for establishments that produce not-ready-to-eat (NRTE) comminuted chicken or turkey products to reassess their Hazard Analysis and Critical Control Points (HACCP) plans for those products. FSIS will postpone by 45 days the date inspection personnel will begin verifying that those establishments have reassessed their HACCP plans. In addition, starting approximately on April 20, 2013, the Agency intends to begin obtaining samples to determine the prevalence of *Salmonella* in NRTE comminuted poultry product announced in the document. The Agency is taking these actions in response to a request made by a coalition of trade associations.

DATES: The comment period for the document published December 6, 2012, at 77 FR 72686, is extended. Comments are due by April 20, 2013.

ADDRESSES: FSIS invites interested persons to submit comments on this

document. Comments may be submitted by either of the following methods:

Federal eRulemaking Portal: This Web site 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: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8-163A, Washington, DC 20250-3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8-163A, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2012-0007. Comments received in response to this docket 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 to 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:

On December 6, 2012, FSIS published a document in the **Federal Register** to inform establishments producing NRTE ground or otherwise comminuted chicken and turkey products that they must reassess their HACCP plans for these products to take into account several recent *Salmonella* outbreaks associated with consumption of comminuted NRTE turkey products (77 FR 72686). In the document, FSIS describes how it will determine whether the association of NRTE meat or poultry product with an illness outbreak would make subsequently-produced like product adulterated. The Agency also announced the expansion of its *Salmonella* verification sampling program to include all forms of non-

breaded, non-battered comminuted NRTE poultry product not destined for further processing into ready-to-eat products. In addition, the document announces that the Agency will begin sampling to determine the prevalence of *Salmonella* in NRTE comminuted poultry and will use the results from this sampling to develop performance standards for these products. FSIS gave the public until March 6, 2013, to submit comments on the document.

In a letter addressed to FSIS Administrator Alfred V. Almanza, dated January 18, 2013, a coalition of trade associations stated that additional time was needed to formulate meaningful comments.

FSIS will extend the comment period by an additional 45 days; the comment period will now end on April 20, 2013. FSIS will also provide an additional 45 days for establishments that produce NRTE comminuted chicken or turkey products to reassess their HACCP plans for those products. Recognize, however, that the December 6, 2012, document was based on the Agency's determination that changes have occurred that could affect establishments' hazard analysis or affect their HACCP plan. As is explained in the **Federal Register** document, FSIS is requiring the reassessments because of the outbreaks and recalls that have occurred. Thus, the predicate for requiring reassessment under 9 CFR 417.4(a)(3) clearly exists. Therefore, establishments should use this additional time to conduct a reassessment of their HACCP plans for those products.

FSIS will postpone by 45 days—until April 20, 2013—the date inspection personnel will begin verifying that those establishments have reassessed their HACCP plans. In addition, starting approximately on April 20, 2013, the Agency intends to begin obtaining samples to determine the prevalence of *Salmonella* in NRTE comminuted poultry announced in the **Federal Register** document. FSIS expects to use the verification testing program as the means for obtaining samples and will use the results from this sampling to develop performance standards for these products.

FSIS will not further delay verifying that establishments have reassessed their HACCP plans, nor will the Agency delay its sampling of such comminuted

products. However, FSIS will not make any changes to the performance standards for these products until FSIS has evaluated all comments received and has analyzed the results of the new testing.

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Additional Public Notification

FSIS will announce this document online through the FSIS Web page located at http://www.fsis.usda.gov/regulations_&_policies/federal_register_notices/index.asp.

FSIS will also 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 also available on the FSIS Web page. In addition, FSIS offers an electronic 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/News_&_Events/Email_Subscription/. 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 at Washington, DC, on: February 11, 2013.

Alfred V. Almanza,
Administrator.

[FR Doc. 2013-05342 Filed 3-6-13; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 424

[Docket No. FSIS-2011-0018]

RIN 0583-AD47

Food Ingredients and Sources of Radiation Listed and Approved for Use in the Production of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to remove sodium benzoate, sodium propionate, and benzoic acid from the list of substances that the regulations prohibit for use in meat or poultry products. New uses of these substances in meat or poultry products will continue to be approved by the Food and Drug Administration (FDA) for safety and by FSIS for suitability. FSIS will add approved uses of these substances to the list of approved substances contained in the Agency's directive system.

DATES: Effective May 6, 2013.

FOR FURTHER INFORMATION CONTACT:

Charles Williams, Director, Policy Issuances Division, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250-3700, (202) 720-5627.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 2012, FSIS issued a proposed rule entitled "Food Ingredients and Sources of Radiation Listed and Approved for Use in the Production of Meat and Poultry Products" and requested comments on the document (77 FR 26706). FSIS proposed to remove sodium benzoate, sodium propionate, and benzoic acid from the list of substances that the regulations prohibit for use in meat or poultry products.

As explained in the proposal, under the Federal Food Drug and Cosmetics Act (FFDCA)(21 U.S.C. 301 *et seq.*), FDA

is responsible for determining the safety of ingredients and sources of irradiation used in the production of meat and poultry products, as well as prescribing safe conditions of use. Under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), FSIS is responsible for determining the suitability of FDA-approved substances in meat and poultry products. Pursuant to a Memorandum of Understanding (MOU) that was implemented in January 2000, FDA and FSIS work together to evaluate petitions requesting the approval of new substances, or new uses of previously approved substances, for use in or on meat and poultry products. The MOU is available for viewing by the public in the FSIS docket room and on the FSIS Web site at: http://www.fsis.usda.gov/Regulations_&_Policies/Labeling_FDA_MOU/index.asp. Under this MOU, if FDA and FSIS approve an ingredient for use in meat or poultry products, FDA establishes the parameters of the approved use under its regulatory system. FSIS also lists the substance in FSIS Directive 7120.1, "Safe and Suitable Ingredients Used in the Production of Meat, Poultry, and Egg Products," as part of a comprehensive listing of the substances that have been reviewed and that have been accepted as safe and suitable. (The Directive is available at: <http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/7120.1.pdf>.)

The proposed rule also explained that, under FSIS's regulations, certain antimicrobial substances are prohibited for use in meat or poultry products because these substances have the potential to conceal damage or inferiority when used at certain levels (9 CFR 424.23(a)(3)). Among these substances are potassium sorbate, propylparaben (propyl hydroxybenzoate), calcium propionate, sodium propionate, benzoic acid, and sodium benzoate.

In 2006, Kraft Foods Global, Inc. petitioned FSIS to amend the Federal meat and poultry products inspection regulations to permit the use of sodium benzoate and sodium propionate as acceptable antimicrobial agents that may be used in combination with other approved ingredients to inhibit the growth of *Listeria monocytogenes* (*Lm*) in ready-to-eat (RTE) meat and poultry products. On July 26, 2010, Kemin Food Technologies petitioned FSIS to amend the regulations to permit the use of liquid sodium propionate and liquid sodium benzoate as acceptable antimicrobial agents in meat and poultry products.