

acceptable disposal of the fresh Russet potatoes.

(b) The producer, charitable institution, livestock feeder, ethanol producer, or acceptable disposal entity must permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts to determine compliance with provisions of this program; such records and accounts must be retained for three years after the date of last payment to the producer under the program, or for two years after date or audit of records by USDA as provided herein, whichever is the later.

**§ 80.13 Offset, assignment, and prompt payment.**

(a) Any payment or portion thereof due any person under this subpart shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the crop proceeds thereof in favor of the producer or any other creditors except agencies of the U.S. Government. The regulations governing offsets and withholdings found at 7 CFR Part 1403 shall not be applicable to this subpart.

(b) Payments which are earned by a producer under this program may be assigned in accordance with the provisions of 7 CFR part 1404.

(c) Prompt Payment Interest will not be applicable.

**§ 80.14 Appeals.**

Any producer who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780.

**§ 80.15 Refunds; joint and several liability.**

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application of this subpart, and if any refund of a payment to FSA shall otherwise become due in connection with the application of this subpart, all payments made under this subpart to any producer shall be refunded to FSA together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided for in part 1403 of this title.

(b) All producers signing an application for payment as having an interest in such payment shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application of this subpart.

(c) Interest shall be applicable to refunds required of any producer under this subpart if FSA determines that payments or other assistance were provided to a producer who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the Commodity Credit Corporation (CCC) for funds, as of the date FSA made benefits available. Such interest shall accrue from the date of repayment or the date interest increases as determined in accordance with applicable regulations. FSA may waive the accrual of interest if FSA determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Interest determined in accordance with paragraph (c) of this section may be waived on refunds required of the producer when there was no intentional misaction on the part of the producer, as determined by FSA.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 792.

(f) Producers must refund to FSA any excess payments, as determined by FSA, with respect to such application.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by the producer, the benefit must be repaid with any applicable interest.

**§ 80.16 Death, incompetency, or disappearance.**

In the case of death, incompetency, disappearance, or dissolution of a potato producer that is eligible to receive benefits in accordance with this subpart, such person or persons specified in part 707 of this title may receive such benefits, as determined appropriate by FSA.

Dated: April 10, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410-02-P**

**DEPARTMENT OF AGRICULTURE**

**Food Safety and Inspection Service**

**9 CFR Parts 301, 303, 317, 318, 319, 320, 325, 331, 381, 417, and 430**

**[Docket No. 97-013N]**

**Performance Standards for the Production of Processed Meat and Poultry Products—Notice of Technical Conference and Public Meeting; Extension of Comment Period**

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice of technical conference and public meeting.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) will hold a technical conference on May 8, 2001, in Washington, DC. The purpose of the conference is to discuss scientific research and new technologies relevant to the recently proposed regulatory requirements for processed meat and poultry products, "Performance Standards for the Production of Processed Meat and Poultry Products." FSIS is soliciting papers and presentations from government agencies, academia, consumer organizations, and other interested parties.

Additionally, on May 9 and 10, 2001, FSIS will hold a public meeting in Washington, DC, to provide information and receive public comments specific to the proposed regulations. FSIS is extending for an additional 30 days the comment period for the proposed regulations, previously scheduled to close on May 29, 2001. Comments now must be received by June 28, 2001. FSIS is extending the comment period to provide ample opportunity for the public to comment on issues raised at the technical conference and public meeting.

**DATES:** FSIS will hold the technical conference on May 8, 2001, and the public meeting on May 9-10, 2001. Comments on the proposed regulations published on February 27, 2001, at 66 FR 12590, must be received on or before June 28, 2001.

**ADDRESSES:** Both the technical conference and the public meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle, NW., (at Massachusetts Avenue and 14th Street), Washington, DC 20005.

Papers and presentations for the technical conference should be sent to: Matthew Michael, Regulation and Directive Development Staff, OPPDE, FSIS, USDA, Room 103 Cotton Annex,

300 12th Street, SW., Washington, DC 20250; by fax to: (202) 690-0486; or by electronic mail to: matthew.michael@usda.gov. Because of time restrictions, FSIS may not be able to schedule time for all interested parties to give papers or make presentations. Regardless, FSIS will make available at the conference submitted papers and other presentation materials, if requested by the author.

To register for the public meeting, contact Ms. Mary Harris by telephone at (202) 690-6497, FAX to (202) 690-6500, or E-mail to mary.harris@usda.gov. If a sign language interpreter or other special accommodation is necessary, contact Ms. Harris at the above numbers by May 1, 2001. If you are planning to present an oral comment at the public meeting, please submit a copy of the prepared comment to the FSIS Docket Clerk, Docket No. 97-013P, Room 102 Cotton Annex, 300 12th Street, SW, Washington, DC 20250-3700.

Send all written comments on the proposed regulations to: FSIS Docket No. 97-013P, Department of Agriculture, Food Safety and Inspection Service, Room 102, 300 12th Street, SW., Washington, DC 20250-3700. All comments received will be considered part of the public record and will be available for viewing in the Docket Room between 8:30 a.m. and 4:30 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, Room 112 Cotton Annex, 300 12th Street, SW., Washington, DC 20250. Telephone number (202) 720-5627, fax number (202) 690-0486.

**SUPPLEMENTARY INFORMATION:** On February 27, 2001, FSIS published a proposed rule "Performance Standards for the Production of Processed Meat and Poultry Products" (66 FR 12590). In that document, the Agency proposed food safety performance standards applicable to all ready-to-eat (RTE) and all partially heat-treated meat and poultry products, as well as environmental testing requirements intended to reduce the incidence of *Listeria monocytogenes* in RTE meat and poultry products. FSIS also proposed to convert to performance standards the existing regulatory requirements for thermally-processed, commercially sterile (most often canned) meat and poultry products and to rescind certain requirements requiring the elimination of trichina from products that contain pork.

FSIS is holding a technical conference to facilitate the submission and discussion of scientific research and

technological data relevant to these proposed regulations. In the proposal, FSIS identified additional needs for data that if addressed could strengthen the scientific foundation of any final action. It is extremely important that the regulations be based on sound science and common sense measures.

Selection of papers and presentations, as well as the forthcoming conference agenda, will ensure adequate discussion of all of the identified topics. FSIS also will try to accommodate presentations of relevant data not specifically requested in the proposal or below. FSIS requests that submissions for the technical conference concern scientific research and technological developments relevant to the proposed regulations, rather than merely be comment on the proposed regulations themselves. After FSIS has selected papers for presentation, it will make the technical conference agenda available on the Internet. At the public meeting also announced in the document, FSIS will provide information and accept public comments specific to the proposed regulations.

FSIS intends to divide the public meeting to receive comments on the proposed regulations into four three-hour sessions, organized as follows:

TENTATIVE AGENDA FOR THE FSIS PUBLIC MEETING ON THE PROPOSED RULE, "PERFORMANCE STANDARDS FOR THE PRODUCTION OF PROCESSED MEAT AND POULTRY PRODUCTS"

May 9, 2001 .....	Morning .....	Lethality and stabilization performance standards
	Afternoon .....	Requirements for the control of <i>L. monocytogenes</i>
May 10, 2001 .....	Morning .....	Revisions to the regulations governing the elimination of Trichina from pork products and governing commercially-sterile (canned) products
	Afternoon .....	Economic impact of the proposed regulations and cost/benefit data needs

FSIS invites interested parties to make oral comments or presentations at the public meeting. Please register in advance with Ms. Mary Harris and submit a written copy of your comments to the FSIS Docket Room (See ADDRESSES above). FSIS may revise the above public meeting agenda, depending on interest expressed in the various proposed regulations. As with the final agenda for the Technical Conference, FSIS plans to publish the final agenda for the Public Meeting on the Internet.

Also, the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will meet on May 7, 2001. This meeting also is open to the public. FSIS invites Committee members to attend the technical conference and public meeting announced in this document.

FSIS is extending the comment period on the proposed regulations to provide ample opportunity for the public to comment on issues raised at the technical conference and public meeting.

**Specific Scientific Information and Data Needs To Be Discussed at the Technical Conference**

*Testing for Listeria spp.*

FSIS proposed to require that each establishment that produces RTE meat and poultry products conduct testing of food contact surfaces to verify that its Sanitation SOPs are eliminating *Listeria spp.* from food contact surfaces, unless it has developed a CCP within its HACCP plan for the control of *L. monocytogenes*. FSIS is confident that will result in sanitation improvements

that will lead to reductions in the contamination of RTE meat and poultry products by *L. monocytogenes*. However, FSIS is not aware of any research that correlates specific amounts or types of testing with specific remedial actions or reductions in contamination and welcomes the submission of any data. FSIS also requests comment as to whether other types of environmental testing, regular product testing, or some combination may be more effective in detecting *L. monocytogenes* contamination problems.

FSIS has proposed required frequencies of testing that ensure very minimal levels of regular testing based on establishment size. FSIS is aware of no research linking volume of production with the likelihood of product adulteration by *L.*

*monocytogenes*, but considers it reasonable that insanitary establishments producing higher volumes of RTE meat and poultry products would be more likely to adulterate more product and thus pose more risk to the public health. As a result, FSIS has proposed a progressive series of testing frequencies intended to protect consumers from adulterated product. These testing frequencies also should minimize the costs of testing accrued by small business.

FSIS requests any data that could bear on adjustments to the proposed frequencies, suggest other testing frequencies, correlate contamination risk with volume of production, or indicate what types and frequencies of testing for *L. monocytogenes* are most effective in detecting insanitation and possible adulteration of RTE meat and poultry products. Also, FSIS requests data regarding the relationship between *Listeria spp.* and *L. monocytogenes* and how that relationship should affect any requirements. For example, does a food contact surface positive for *Listeria spp.* scientifically necessitate product testing and what would negative product test results mean?

FSIS also requests data regarding the costs and benefits of the proposed testing provisions, as well as other testing protocols. FSIS seeks any data correlating testing, reductions in establishment contamination, and consequent reductions in listeriosis that could be used to improve the Agency's cost/benefit analysis.

#### *Lethality Performance Standards*

FSIS is proposing lethality performance standards for the pathogen *Salmonella* derived from the Nationwide Microbiological Baseline Data Collection Program. Using the positive samples in the baseline data, FSIS derived hypothetical worst case raw products and then determined the levels of pathogen reduction (lethality performance standards) that, if met, would render these worst case raw products ready-to-eat and unadulterated with a specific margin of safety. FSIS also translated the results of the application of the lethality performance standards into probabilities of remaining pathogens in finished RTE product. Consequently, an establishment that demonstrates that its incoming raw product is consistently less contaminated than the worst case could apply a lower lethality than proposed, as long as it achieves the corresponding probability of remaining pathogens in finished RTE product.

It is possible that better data are available for deriving hypothetical worst

case products and corresponding performance standards. For the lethality requirements concerning *Salmonella*, FSIS is unaware of any human health risk assessments that could be used to correlate changes in the performance standards with changes in public health benefits. Higher or lower lethality performance standards may be necessary in all or specific processing contexts. FSIS specifically requests any data that would support requiring different lethality performance standards to achieve certain public health benefits.

The lethality performance standards for *Salmonella* already apply to numerous RTE meat and poultry products and FSIS believes that many establishments that produce RTE products not now subject to the proposed standards already meet them. It is likely, however, that some establishments will have to alter their processing methods to meet the proposed standards, i.e., to achieve higher levels of lethality in their RTE products. Further, manufacturers of RTE meat patties now only are required to comply with time/temperature regulations that yield a lesser level of lethality than what FSIS is proposing for all RTE meat products. FSIS requests information on the costs meat patty manufacturers and other establishments may accrue if required to meet the proposed lethality performance standards for RTE meat and poultry products.

FSIS also requests scientific information relative to the proposed lethality performance standards for *E. coli* O157:H7 in fermented RTE products that contain beef, especially information that indicates a different worst case and lethality performance standard for this pathogen may be warranted.

#### *Stabilization Performance Standards*

Also under the proposal, all RTE meat and poultry products, other than thermally processed, commercially sterile products, and all partially heat-treated products, must be processed so as to prevent multiplication of toxigenic microorganisms such as *C. botulinum* and to allow no more than 1-log<sub>10</sub> multiplication of *C. perfringens* within the product. Stabilization is commonly achieved by rapidly cooling product after cooking. It also can be achieved by the addition of a curing agent. These regulatory stabilization standards already apply to numerous RTE and partially-heat treated meat and poultry products.

Researchers have suggested to FSIS that there may be some inevitable

growth of *C. botulinum* during a 1-log<sub>10</sub> relative growth of *C. perfringens* and, therefore, compliance with the proposed zero growth standard for *C. botulinum* could in fact effectively require establishments to meet a more restrictive standard than that for *C. perfringens*. FSIS requests comment and scientific data relative to whether the Agency should revise the existing and proposed stabilization performance standard for controlling these two pathogens, as well as data on corresponding public health benefits.

#### *Other Topics*

As mentioned above, FSIS welcomes the submission of papers and presentations on scientific and technical topics relevant to the proposed regulations, but not specifically mentioned above or in the proposal.

Done in Washington, DC on April 10, 2001.

**Thomas J. Billy,**

*Administrator.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-119352-00]

RIN 1545-AY58

#### Guidance on Filing an Application for a Tentative Carryback Adjustment in a Consolidated Return Context; Hearing Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations relating to the filing of application for a tentative carryback adjustment in a consolidated return context.

**DATES:** The public hearing originally scheduled for Thursday, April 26, 2001, at 10 a.m., is canceled.

**FOR FURTHER INFORMATION CONTACT:** Guy R. Traynor, Regulations Unit, Office of Special Counsel, (202) 622-7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on January 4, 2001 (66 FR 747), announced that a public hearing was scheduled for April 26, 2001, at 10 a.m., in room 4718 of the