

DEPARTMENT OF AGRICULTURE**Food Safety and Inspection Service**

[Docket No. FSIS-2020-0030]

Availability of FSIS Guideline To Assist With the Donation of Eligible Meat & Poultry Products to Non-Profit Organizations**AGENCY:** Food Safety and Inspection Service, USDA.**ACTION:** Notice of availability and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of and requesting comment on a guideline for meat and poultry establishments interested in donating products to non-profit organizations. FSIS has received several questions from meat and poultry establishments and non-profit organizations on this subject and has decided to address the major concerns associated with donation in this guideline. FSIS encourages establishments to donate meat and poultry products to non-profit organizations, when possible, to reduce food loss and waste.

DATES: Submit Comments on or before February 19, 2021.**ADDRESSES:** A downloadable version of the guideline is available to view and print at <https://www.fsis.usda.gov/wps/portal/food/topics/regulatory-compliance/guidelines>. No hard copies of the guideline have been published.

FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by one 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 <https://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- *Mail, including CD-ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250-3700.

- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2016-0026. Comments received in response to this docket will be made

available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call (202) 720-5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development by telephone at (202) 205-0495.

SUPPLEMENTARY INFORMATION:**Background**

In the United States, food waste is estimated as constituting between 30–40 percent of the food supply. This figure, based on estimates from USDA's Economic Research Service of a 31 percent food loss at the retail and consumer levels, corresponds to approximately 133 billion pounds and \$161 billion worth of food in 2010. Wasted food is the single largest category of material placed in municipal landfills and represents nourishment that could have helped feed families in need.¹ Additionally, water, energy, and labor used to produce wasted food could have been employed for other purposes. Effectively reducing food waste will require cooperation among federal, state, tribal and local governments, faith-based institutions, environmental organizations, communities, and the entire supply chain.

In October 2018, the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), and the U.S. Food and Drug Administration (FDA) launched the Winning on Reducing Food Waste Initiative in a formal agreement.² As part of the initiative, the agencies affirmed their shared commitment to work towards the national goal of reducing food loss and waste by 50 percent by 2030. The agencies agreed to coordinate food loss and waste actions such as education and outreach, research, community investments, voluntary programs, public-private partnerships, tool development, technical assistance, event participation, and policy discussion on the impacts and importance of reducing food loss and waste. While there have been significant actions taken and commitments made through public-

¹ See: https://www.ers.usda.gov/webdocs/publications/43833/43680_eib121.pdf?v=4126.8.

² See: <https://www.usda.gov/sites/default/files/documents/usda-fda-epa-formal-agreement.pdf>.

private partnerships to date, there is still much work to be done. More information on USDA's Winning on Reducing Food Waste Initiative can be found on the USDA website at: <https://www.usda.gov/foodlossandwaste/winning>.

FSIS believes that meat and poultry businesses can be a critical component of reducing food loss and waste. Therefore, FSIS is announcing the availability of a guideline to help meat and poultry establishments understand FSIS's requirements for donating meat and poultry products to non-profit organizations. The guideline explains inspection, labeling, and shipping requirements and exemptions.

FSIS encourages interested parties to follow this guideline. This guideline represents current FSIS thinking, and FSIS will update it as necessary to reflect comments received and any additional information that becomes available. FSIS is seeking comments on this guideline as part of its efforts to continuously assess and improve the effectiveness of policy documents.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: <http://www.fsis.usda.gov/federal-register>. FSIS also will make copies of this 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 our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email 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, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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Send your completed complaint form or letter to USDA by mail, fax, or email:
Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410.

Fax: (202) 690-7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Done in Washington, DC.

Paul Kiecker,

Administrator.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2018-0034]

Availability of FSIS Guideline for Industry Response to Customer Complaints

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of an updated version of the guideline for industry on how to respond to customer complaints of meat and poultry products contaminated with foreign materials. FSIS originally published the guideline in March 2019. Additionally, FSIS is responding to comments received on the March 2019 guideline.

ADDRESSES: A downloadable version of the guideline is available to view and print at <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index>. No hard copies of the guideline have been published.

FOR FURTHER INFORMATION CONTACT:

Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205-0495.

SUPPLEMENTARY INFORMATION:

Background

The Food Safety and Inspection Service (FSIS) administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) to protect the health and welfare of consumers. The Agency is responsible for ensuring that meat, poultry, and egg products are safe, wholesome, and correctly labeled and packaged.

Updated Guideline

On March 11, 2019, FSIS announced the availability of a guideline to assist all FSIS-regulated establishments that slaughter, or further process inspected meat and poultry products to develop and implement procedures for responding to customer complaints of adulterated and misbranded meat and poultry products (84 FR 8662).

FSIS has updated the guideline based on comments received. Specifically, FSIS revised and reorganized the guideline to improve readability; further clarified that a customer complaint program is not required; included methods for establishments to demonstrate control of products; added information on when establishments must notify FSIS that adulterated or misbranded products have entered commerce; added and clarified when establishments are required to address foreign material contamination in their Hazard Analysis and Critical Control Point (HACCP) plan; and clarified applicable regulatory requirements for corrective actions, reassessments, and recall procedures.

While FSIS specifically developed this document to address foreign material customer complaints, establishments can apply the information to other customer complaints of adulterated or misbranded products in commerce. FSIS encourages establishments that may receive customer complaints regarding adulterated or misbranded meat and poultry products to follow this guideline. This document does not present or describe any new regulatory requirements. This guideline represents current FSIS thinking, and FSIS will update it as necessary to reflect comments received and any additional information that becomes available.

Comments and Responses

FSIS received public comments from six trade associations, a poultry products producer, a pork products producer, a consumer advocacy organization, a HACCP consulting group, and an equipment manufacturer. A summary of the comments and the Agency's responses follows:

Foreign Material Adulteration

Comment: Several trade associations stated that the guidelines applied an overreaching and overly broad concept of the term "adulteration" by suggesting that any amount of foreign material, regardless of size or nature, adulterates meat and poultry products. The comments asserted that not all contaminants are food safety hazards and that the guidelines should reflect a risk-based approach to foreign material adulteration, taking into account whether the foreign material would present a health hazard.

Response: The FMIA and the PPIA (21 U.S.C. 601 and 453) and FSIS regulations (9 CFR 301.2, 381.1, and 531.1) state that the term "adulterated" applies, among other circumstances, to meat or poultry products:

—If it bears or contains any poisonous or deleterious substance which may render it injurious to health;

—if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

—if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

Thus, under the FMIA and PPIA and the regulations, the presence of foreign materials adulterates meat and poultry products. Examples of foreign materials found in meat and poultry products include: Glass or metal fragments, which are deleterious substances that may injure health; machinery pieces, such as rubber or plastic, which are filthy, or unwholesome, or unfit for food; or sand or rocks, which typically contaminate food products because of preparation under insanitary conditions. FSIS disagrees that the Agency's interpretation of "adulteration" is overly broad.

FSIS assesses the public health concern or hazard presented when a recall action is initiated for products adulterated with foreign materials. FSIS categorizes the recall as Class I (reasonable probability that the use of the products will cause serious, adverse