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September 10, 2001

United States Department of Agriculture
FSIS Docket Room
Room 102 Cotton Annex
300 12th Street, S.W.
Washington, D.C. 20250-3700

97-013P-2716
97-013P
Martin Corry

Re: Proposed Rule Establishing Performance Standards for the Production of Processed Meat and Poultry Products (Docket # 97-013P)
66 Fed. Reg. 12,590 (Feb. 27, 2001)

AARP appreciates this opportunity to comment on the Food Safety and Inspection Service's (FSIS) proposed rule on performance standards for the production of processed (also known as "Ready-to-Eat" or "RTE") meat and poultry products. Food safety is an issue of particular concern to our members, many of whom, being 65 years of age and older, are particularly susceptible to foodborne illnesses. The proposed rule has special relevance for those older persons who rely on RTE products because of their convenience and ease of preparation.

Our comments will focus on those aspects of the proposal aimed at reducing food contamination by *Listeria monocytogenes* (*L. monocytogenes*), one of the most serious foodborne pathogens.[1] We strongly support the proposal to require facilities to test their product-contact surfaces for the presence of *Listeria spp.*, a non-pathogenic indicator of the effectiveness of an establishment's processes and process controls. A positive finding of *Listeria spp.* is evidence that a facility's sanitation measures are not working effectively to eliminate the conditions that might support growth of *L. monoctyogenes.*[2] However, this is only a first step in verifying the effectiveness of overall plant sanitation. We believe that FSIS must do more to protect consumers against this pathogen. In particular:

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[1] Regarding the other foodborne pathogens found in RTE meat and poultry products -- including *E. coli* O157:H7, *Salmonella spp.*, *Clostridium botulinum*, and *Clostridium spp.* – we do not support FSIS's tentative decision to require companies to achieve a lethality performance standard that relates to the destruction of only one "reference" organism among many possible organisms, in this case *Salmonella.* The use of a reference organism will not necessarily ensure that the RTE products are safe, since certain non-reference pathogens are more resistant to lethality treatments than their "reference" organisms. Instead, FSIS should establish pathogen-specific lethality standards, including performance standards for *Campylobacter* in all RTE poultry products and *E. coli* O157:H7 in all RTE beef products. The agency should establish clear performance standards by regulation, and then allow industry the flexibility to develop lethality processes that exceed minimum government standards.

[2] We support use of *Listeria spp.* until a less expensive and more rapid test for *L. monocytogenes* is developed.

FSIS should adopt a more extensive testing regime including mandatory industry testing of both the plant environment and final products. Only by requiring a range of testing – environmental, product-contact surfaces and final product – can industry and government assure that RTE meat and poultry products are safe from contamination by *L. monocytogenes*. Testing of the plant environment is an important precaution to ensure that establishments' sanitation practices are successfully preventing *L. monocytogenes* contamination. Testing of final product is a necessary complement to environmental and product-contact surface testing since neither of those two types of testing, standing alone, can detect problems in both plant sanitation and hazard-control systems. Final product testing is especially crucial given the high potential for RTE meat and poultry products to be re-contaminated after application of "lethality" treatment. It is imperative that microbial testing be employed at the processor level since, in many instances, the public will consume RTE products without cooking them first.

- **FSIS should include in any mandatory testing requirements facilities that have identified *L. monocytogenes* as a hazard at their plants and have implemented controls for it.** The procedures implemented by these facilities do not necessarily include microbiological testing, either of the product-contact surfaces, the plant environments, or final products, so there is no assurance that *L. monocytogenes* contamination has been eliminated.

- **FSIS should revise the proposed sampling and testing procedures to better ensure that there is no contamination.** There appears to be no scientific justification for FSIS's tentative decision to use plant size (the number of employees) as the basis for determining testing frequency. At a minimum, all establishments, regardless of plant size, should be required, at the outset, to test all of their post-lethality product-contact surfaces relatively frequently (e.g., once every five operating shifts). In addition, testing frequency should be based on the amount of post-lethality handling performed on the products and the likelihood for product re-contamination. Procedures for assuring the random selection of sampling sites should also be specified in the rule. Furthermore, FSIS should set sampling procedures by which companies are to demonstrate that they are testing a statistically significant amount of product for *L. monocytogenes*. Requiring a large sample size to be tested would increase confidence levels that the product meets the zero tolerance requirement.

- **FSIS should require "use-by" labeling for all RTE meat and poultry products to protect consumers.** FSIS should require that the labels for all RTE meat and poultry products contain uniform expiration dating, which makes it clear that for safety reasons, food should be used or frozen by a particular date and that the product should not be consumed after "X" number of days after the package is opened. Because *L. monocytogenes* grows under refrigeration, it can present a safety hazard when a lengthy time has elapsed, even under cold storage conditions. Such labeling can be inconsistent. For example, some states use the ambiguous term "sell by," while others require the term "use by" based not on safety concerns, but rather on when the product loses peak quality. To eliminate this inconsistency and better protect all consumers, especially those who are at particular risk for listeriosis, FSIS should require uniform and clear terminology for safety-based "use by" labeling.

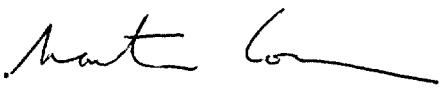
- **FSIS should require that RTE meat and poultry bear an *L. monocytogenes* safe-handling label, pending adoption of a mandatory microbial testing program.** Since the Sara Lee Bil Mar listeriosis outbreak in 1998, FSIS has advised consumers that RTE meat and poultry products are not truly ready-to-eat for people who are especially vulnerable to food-borne illness and that if such persons cannot reheat these foods, they should not eat them. Accordingly, RTE meat and poultry products that have not been pasteurized in the final product step should be required to carry a safe-handling statement indicating that they could be contaminated with the pathogen and, therefore, pose a potential health threat to infants, pregnant women, the elderly and those with weakened immune systems.

AARP believes that both the Federal Meat Inspection Act (FMIA)[3] and the Poultry Products Inspection Act (PPIA)[4] provide FSIS with ample authority to require the testing and labeling requirements that we are recommending in these comments.[5]

Finally, AARP does not believe that implementation of a mandatory industry testing program for *L. monocytogenes* would obviate the need for FSIS's existing random-sampling program. Companies must conduct the initial testing for contamination in their plant environments and final products because they are the only ones who can control what is going on in their own facilities. However, FSIS should continue to sample final products from plants on a random basis to verify that industry testing protocols are working to identify product contamination and its potential sources, help enforce the zero tolerance policy for *L. monocytogenes,* and provide an additional layer of protection for public health. In its testing program, FSIS should concentrate its limited resources on those plants (and products) that pose the greatest potential risk to consumers.

AARP appreciates this opportunity to comment on this important food-safety proposal. If you have any further questions, please contact Larry White of our Federal Affairs staff at (202) 434-3800.

Sincerely,



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[3] 21 U.S.C. § 601 *et seq.*

[4] 21 U.S.C. § 451 *et seq.*

[5] These statutes give USDA, and therefore, FSIS, authority to prevent the introduction of adulterated meat and poultry into commerce (21 C.F.R. §§601(m)(4), 453(g)(4)); to prescribe the rules and regulations of sanitation (21 U.S.C. §§ 608, 456(a)); and to prevent false or misleading labeling and inform the public regarding proper handling (21 U.S.C. §§ 601(n)(12), 453(h)(12)). *See also* 21 U.S.C. §§ 621, 463(b)(the Secretary shall promulgate such rules and regulations as are necessary to carry out the statute).