

**§ 381.21 Refusal of inspection.**

Any application for inspection services in accordance with this part may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

10. Part 381 would be amended by removing section 381.29.

11. Part 381 would be amended by removing Subpart W.

**SUBCHAPTER E—REGULATORY REQUIREMENTS UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT**

12. Subchapter E would be amended by adding a new Part 500 to read as follows:

**PART 500—RULES OF PRACTICE**

**Sec.**

500.11 Refusal to grant inspection.

500.12 Conditions for the suspension or withdrawal of inspection.

500.13 Suspension of inspection.

500.14 Withdrawal of inspection.

500.15 Rescinding or refusing approval of marks, labels, and containers.

500.16 Refusing or withdrawing inspection for applicants or recipients unfit to engage in business.

**Authority:** 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

**§ 500.11 Refusal to grant inspection.**

(a) Inspection services may be refused to be granted at an establishment for any of the following reasons:

(1) Failing to develop a HACCP plan as required by §§ 417.2 and 417.4 of this chapter; or

(2) Failing to develop Sanitation SOP's as required by part 416 of this chapter; or

(3) Failing to demonstrate that adequate sanitary conditions exist as required by part 308 or part 381, subpart H, and part 416 of this chapter; or

(4) Failing to demonstrate that livestock will be handled and slaughtered humanely.

(b) If FSIS refuses to grant inspection services, the applicant will be notified and given an opportunity for a hearing in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

**§ 500.12 Conditions for the suspension or withdrawal of inspection.**

Inspection services may be suspended or withdrawn at an establishment for any of the following reasons:

(a) Failing to implement HACCP or operate in accordance with part 417 of this chapter; or

(b) Failing to implement or maintain Sanitation SOP's in accordance with part 416 of this chapter; or

(c) Failing to maintain sanitary conditions in accordance with part 308 or part 381, subpart H, and part 416 of this chapter; or

(d) Failing to collect and analyze samples for *Escherichia coli* Biotype I and record results in accordance with §§ 310.25(a) or 381.94(a) of this chapter; or

(e) Failing to meet the *Salmonella* performance standard requirements in accordance with §§ 310.25(b)(3)(iii) and 381.94(b)(3)(ii) of this chapter; or

(f) Failing to destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with part 314 or part 381, subpart L, of this chapter within three days of notification; or

(g) Impairing inspection because of assaults, threats of assault, intimidation or other interference that prevents a program official from conducting official duties; or

(h) Slaughtering or handling livestock inhumanely.

**§ 500.13 Suspension of inspection.**

(a) Inspection services may be suspended at an establishment for any of the conditions described in § 500.12 of this part.

(b) If inspection services are suspended, an establishment will receive a written "Notice of Suspension of Inspection." The notice will provide the following:

(1) The effective date of the suspension.

(2) The reasons for the suspension.

(3) The name and address where an appeal may be sent.

(c) A suspension of inspection services will remain in effect until an establishment is found to be in compliance with the regulations in this chapter.

**§ 500.14 Withdrawal of inspection.**

(a) A grant of inspection services may be withdrawn at an establishment that fails to correct any of the conditions described in § 500.12 of this part.

(b) FSIS will initiate a complaint to withdraw inspection services in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

**§ 500.15 Rescinding or refusing approval of marks, labels, and containers**

(a) FSIS will rescind or refuse approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat or poultry product under section 7 of the FMIA, or under section 8 of the PPIA, in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

(b) FSIS will provide written notification that:

(1) Explains the reason for rescinding or refusing the approval.

(2) Provides an opportunity to modify the marking, labeling, or container so that it will no longer be false or misleading, and

(3) Advises the firm of its opportunity to submit a written statement to answer the notification and to request a hearing with respect to the merits or validity of FSIS's determination.

(c) Effective upon service of the notification in accordance with § 1.147 of the Uniform Rules of Practice (7 CFR 1.147), the use of the marking, labeling, or container shall cease.

(d) If a hearing is requested, FSIS will initiate a complaint in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

**§ 500.16 Refusing or withdrawing inspection for applicants or recipients unfit to engage in business.**

If the Administrator has reason to believe that an applicant for inspection services or recipient of inspection services is unfit to engage in any business requiring inspection because of any of the reasons specified in section 401 of the FMIA or section 18(a) of the PPIA, inspection services will be refused or withdrawn in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

Done at Washington, DC on: January 5, 1998.

**Thomas J. Billy,**  
*Administrator.*

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**DEPARTMENT OF AGRICULTURE**

**Food Safety and Inspection Service**

**9 CFR Part 310**

[Docket No. 97–079P]

RIN 0583–AC40

**Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Salmonella Performance Standard for Fresh Pork Sausage**

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

**ACTION:** Proposed rule.

**SUMMARY:** FSIS is proposing to add a *Salmonella* performance standard for fresh pork sausage to the Federal meat inspection regulations. On November 14, 1997, FSIS published this performance standard in a direct final rule. The Agency received an adverse

comment regarding the performance standard. Accordingly, FSIS has withdrawn the performance standard regulatory amendment (published elsewhere in this issue of the **Federal Register**) and is issuing this proposed rule.

**DATES:** Comments must be received on or before February 11, 1998.

**ADDRESSES:** Send an original and two copies of written comments to: FSIS Docket Clerk, Docket #97-079P, Room 102, Cotton Annex, 300 12th Street, SW, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700. Reference materials cited in this docket will be available for public inspection in the FSIS Docket Room from 8:30 to 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation; (202) 205-0699.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 14, 1997, FSIS published the direct final rule "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Sample Collection—Technical Amendments" (62 FR 61007). Among other things, that direct final rule established a *Salmonella* performance standard for fresh pork sausage (9 CFR 310.25(b)(1)). During the 30-day comment FSIS received an adverse comment to this regulatory amendment from the law firm of McDermott, Will, & Emery, representing Jimmy Dean Foods, Inc. and Odom's Tennessee Pride Sausage, Inc. The comment raised concerns regarding the methodology used to establish the performance standard and stated that "it is our clients" intention to provide

additional data and information within the context of notice and comment rulemaking on this issue." Therefore, FSIS has withdrawn the performance standard established in 9 CFR 310.25 in a withdrawal notification published elsewhere in this issue of the **Federal Register**.

As stated in FSIS's direct final rule, if the Agency received adverse comments within the scope of the rulemaking, then a proposed rule would be issue. Accordingly, FSIS is proposing a *Salmonella* performance standard for fresh pork sausages. The performance standard is 30% (percent positive for *Salmonella*), the number of samples tested (n) equals 53, and the maximum number of positives to achieve the standard (c) equals 18. The same methodology was used to develop this performance standard as for ground beef and ground poultry. To further explain how the performance standard was developed, FSIS is making available copies of the paper "Estimation of *Salmonella* Prevalence in 25-gram Portions of Fresh Ground Pork" in the FSIS Docket Room.

**Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

The Pathogen Reduction/HACCP final rule included a Final Regulatory Impact Assessment (FRIA) (61 FR 38945). This proposed rule does not change the cost and benefit estimates and impact assessments presented in the FRIA.

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule becomes final: (1) All state and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Paperwork Requirements**

The Pathogen Reduction/HACCP final rule included a paperwork analysis (61 FR 38862) prepared in accordance with the Paperwork Reduction Act. FSIS has determined that this proposed rule will not change any information collection burden hours.

**Proposed Rule**

**List of Subjects in 9 CFR Part 310**

Animal diseases, Meat inspection.

For the reason set forth in this preamble, 9 CFR chapter III would be amended as follows:

**PART 310—POST MORTEM INSPECTION**

1. The authority citation for part 310 would continue to read as follows:

**Authority:** 21 U.S.C. 601-695; 7 CFR 2.18, 2.53.

2. Section 310.25 would be amended by revising Table 2 in paragraph (b)(1) to read as follows:

**§ 310.25 Contamination with microorganisms; pathogen reduction performance standards for *Salmonella*.**

- \* \* \* \* \*
- (b) \* \* \*
- (1) \* \* \*

TABLE 2.—SALMONELLA PERFORMANCE STANDARDS

Class of product	Performance Standard (percent positive for <i>Salmonella</i> ) <sup>a</sup>	Number of samples tested (n)	Maximum number of positives to achieve Standard (c)
Steers/heifers .....	1.0	82	1
Cows/bulls .....	2.7	58	2
Ground beef .....	7.5	53	5
Hogs .....	8.7	55	6
Fresh pork sausages .....	30	53	18

<sup>a</sup>Performance Standards are FSIS's calculation of the national prevalence of *Salmonella* on the indicated raw product based on data developed by FSIS in its nationwide microbiological data collection programs and surveys. (Copies of Reports on FSIS's Nationwide Microbiological Data Collection Programs and Nationwide Microbiological Surveys used in determining the prevalence of *Salmonella* on raw products are available in the FSIS Docket Room.)

\* \* \* \* \*

Done at Washington, DC, on January 5, 1998.

**Thomas J. Billy,**  
*Administrator.*

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**FEDERAL TRADE COMMISSION**

**16 CFR Ch. I**

**Notice of Intent to Request Public Comments on Rules**

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of intent to request public comments.

**SUMMARY:** As part of its systematic review of all current Commission regulations and guides, the Federal Trade Commission ("Commission") gives notice that it intends to request public comments on the guides and exemption procedures listed below during 1998. The Commission will request comments on, among other things, the economic impact of, and the continuing need for, the guides and procedures; possible conflict between the guides and procedures and state, local, or other federal laws or

regulations; and the effect on the guides and procedures of any technological, economic, or other industry changes. No Commission determination on the need for or the substance of a guide or procedure should be inferred from the intent to publish requests for comments.

**FOR FURTHER INFORMATION CONTACT:** Further details may be obtained from the contact person listed for each particular item.

**SUPPLEMENTARY INFORMATION:** The Commission intends to initiate a review of and solicit public comments on the following rules during 1998:

(1) Used Auto Parts Industry Guides, 16 CFR Part 20.

*Agency Contact:* David V. Plottner, Federal Trade Commission, Cleveland Regional Office, Eaton Center, Suite 200, 1111 Superior Ave., Cleveland, OH 44114, (216) 263-3409.

(2) Adhesive Compositions Guides, 16 CFR Part 235.

*Agency Contact:* Erika Wodinsky, Federal Trade Commission, San Francisco Regional Office, Suite 570, 901 Market Street, San Francisco, CA 94103, (415) 356-5290.

(3) Decorative Wall Paneling Guides, 16 CFR Part 243.

*Agency Contact:* Eric Nickerson, Federal Trade Commission, Denver

Regional Office, Suite 1523, 1961 Stout Street, Denver, CO 80294-0101, (303) 844-2272.

(4) Procedures for State Application for Exemptions from the Fair Debt Collection Practices Act, 16 CFR Part 901.

*Agency Contact:* John Lefevre, Federal Trade Commission, Bureau of Consumer Protection, Division of Credit Practices, Room S-4429, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-3029.

As part of its ongoing program to review all current Commission regulations and guides, the Commission also has tentatively scheduled reviews of other rules and guides for 1999 through 2007. A copy of this tentative schedule is appended. The Commission may in its discretion modify or reorder the schedule in the future to incorporate new legislative rules, or to respond to external factors (such as changes in the law) or other considerations.

**Authority:** 15 U.S.C. 41-58.

By direction of the Commission, Commissioner Thompson and Commissioner Swindle not participating.

**Donald S. Clark,**  
*Secretary.*

APPENDIX—REGULATORY REVIEW MODIFIED REVOLVING TEN-YEAR SCHEDULE

16 CFR Part	Topic	Year to Review
20	Used Auto Parts Industry Guides	1998
243	Decorative Wall Paneling Guides	1998
235	Adhesive Compositions Guides	1998
901	Procedures for State Application for Exemptions from the Fair Debt Collection Practices Act	1998
240	Guides for Ad Allowances and Merchandising Payments	1999
256	Guides for the Law Book Industry	1999
259	Fuel Economy Guides	1999
307	Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986	1999
453	Funeral Industry Practices Rule	1999
600	Statements of General Policy or Interpretations	1999
233	Guides Against Deceptive Pricing	2000
238	Guides Against Bait Advertising	2000
241	Guides for the Dog and Cat Food Industry	2000
250	Guides for the Household Furniture Industry	2000
251	Guide Concerning Use of the Word "Free"	2000
310	Telemarketing Sales Rule	2000
228	Tire Advertising and Labeling Guides	2001
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2001
424	Retail Food Store Advertising and Marketing Practices	2001
433	Holder-In-Due-Course Rule	2001
801	Hart-Scott-Rodino Coverage Rules (Mergers)	2001
802	Hart-Scott-Rodino Exemption Rules (Mergers)	2001
803	Hart-Scott-Rodino Transmittal Rules (Mergers)	2001
306	Automotive Fuel Ratings Rule	2003
435	Mail or Telephone Order Merchandise Rule	2003
18	Guides for the Nursery Industry	2004
305	Appliance Labeling Rule	2004
410	Television Picture Size Rule	2004
500	Regulations under Section 4 of the Fair Packaging and Labeling Act (FPLA)	2004
501	Exemptions from Part 500 of FPLA	2004
502	Regulations under Section 5(c) of FPLA	2004
503	Statements of General Policy or Interpretations under FPLA	2004
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2005
309	Labeling Requirements for Alternative Fuels and Alternatively Fueled Vehicles	2005