

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-D-0091]

Draft Guidance for Industry: Testing for *Salmonella* Species in Human Foods and Direct-Human-Contact Animal Foods; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Testing for *Salmonella* Species in Human Foods and Direct-Human-Contact Animal Foods." The draft guidance, when finalized, is intended for firms that manufacture, process, pack, or hold human foods or direct-human-contact animal foods intended for distribution to consumers, institutions, or food processors. The draft guidance does not apply to egg producers and other persons who are covered by FDA's final rule "Prevention of *Salmonella* Enteritidis in Shell Eggs During Production, Storage, and Transportation." The draft guidance addresses testing procedures for *Salmonella* species (spp.) in human foods (except shell eggs) and direct-human-contact animal foods, and the interpretation of test results, when the presence of *Salmonella* spp. in the food may render the food injurious to human health.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments concerning the draft guidance by June 21, 2011.

ADDRESSES: Submit electronic comments on the draft guidance to <http://www.regulations.gov>. Submit written comments on the draft guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for single copies of the draft guidance to the Office of Food Safety, Center for Food Safety and Applied Nutrition (HFS-317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY**

INFORMATION section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT:

Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFS-317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-2022.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Testing for *Salmonella* Species in Human Foods and Direct-Human-Contact Animal Foods." The draft guidance, when finalized, is intended for firms that manufacture, process, pack, or hold human foods or direct-human-contact animal foods intended for distribution to consumers, institutions, or food processors. The draft guidance does not apply to egg producers and other persons who are covered by FDA's final rule "Prevention of *Salmonella* Enteritidis in Shell Eggs During Production, Storage, and Transportation" (21 CFR part 118; the shell egg final rule). The draft guidance addresses testing procedures for *Salmonella* spp. in human foods (except shell eggs) and direct-human-contact animal foods, and the interpretation of test results, when the presence of *Salmonella* spp. in the food may render the food injurious to human health. FDA intends to issue a separate guidance document responding to questions FDA has received on the shell egg final rule since its publication and include in that document guidance on environmental and egg testing for *Salmonella* Enteritidis.

Salmonella spp. can cause serious and sometimes fatal infections in young children, frail or elderly people, and others with weakened immune systems. Healthy persons infected with *Salmonella* spp. often experience fever, diarrhea (which may be bloody), nausea, vomiting, and abdominal pain. In rare circumstances, infection with *Salmonella* spp. can result in the organism getting into the blood stream and producing more severe illnesses such as arterial infections (i.e., infected aneurysms), endocarditis, and arthritis. In addition, direct-human-contact animal foods contaminated with *Salmonella* spp. pose a significant health risk to humans who have direct contact with the foods at homes, petting zoos, agricultural fairs, or similar venues.

The draft guidance represents the Agency's current thinking on testing for *Salmonella* spp. in human foods and direct-human-contact animal foods. It

does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either <http://www.fda.gov/FoodGuidances> or <http://www.regulations.gov>. Always access an FDA guidance document by using the Web sites listed previously to find the most current version of the guidance.

Dated: March 17, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-D-0028]

Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Ovarian Adnexal Mass Assessment Score Test System; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the special controls guidance entitled "Class II Special Controls Guidance Document: Ovarian Adnexal Mass Assessment Score Test System." This guidance document describes a means by which the ovarian adnexal mass assessment score test system may comply with the requirement of special controls for class II devices. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule to classify these device types into class II (special controls). This

guidance document is immediately in effect as the special control for the ovarian adnexal mass assessment score test system, but it remains subject to comment in accordance with the agency's good guidance practices (GGPs).

DATES: Submit written or electronic comments on this guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Class II Special Controls Guidance Document: Ovarian Adnexal Mass Assessment Score Test System" to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301-847-8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Donna Roscoe, Center for Devices and Radiological Health, Food and Drug Administration, Bldg., 66, rm. 5540, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301-796-6183; or Marina Kondratovich, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, rm. 5666, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301-796-6036.

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule codifying the classification of the ovarian adnexal mass assessment score test system into class II (special controls) under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(2)). This guidance document will serve as the special control for the ovarian adnexal mass assessment score test system. Section 513(f)(2) of the FD&C Act provides that any person who submits a premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) for a device that has not

previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the FD&C Act, request FDA to classify the device under the criteria set forth in section 513(a)(1). FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification. Under this authority, on September 11, 2009, FDA by order classified into class II, subject to this special control guidance document, the ovarian adnexal mass assessment score test system. Because of the timeframes established by section 513(f)(2) of the FD&C Act, FDA has determined, under § 10.115(g)(2) (21 CFR 10.115(g)(2)), that it is not feasible to allow for public participation before issuing this guidance as a final guidance document. Therefore, FDA is issuing this guidance document as a level 1 guidance document that is immediately in effect. FDA will consider any comments that are received in response to this notice to determine whether to amend the guidance document.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on the ovarian adnexal mass assessment score test system. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm>. Guidance documents are also available at <http://www.regulations.gov>. To receive "Class II Special Controls Guidance Document: Ovarian Adnexal Mass Assessment Score Test System," you may either send an e-mail request to dsmica@fda.hhs.gov to receive an electronic copy of the document or send a fax request to 301-847-8149 to receive a hard copy. Please use the document number 1707 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collections of information in 21 CFR part 807 subpart E have been approved under OMB control number 0910-0120; the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910-0485; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910-0073; and the collections of information in 21 CFR part 812 have been approved under OMB control number 0910-0078.

FDA concludes that labeling provisions for the Black Box Restrictions of this guidance are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). Rather, the black box warning on all labeling, advertising, and promotional materials for ovarian adnexal mass assessment score test system devices is a "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public." (see 5 CFR 1320.3(c)(2)).

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 16, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

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