

May 3, 2022

Martin Duplessis
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Sent Via email: martin.duplessis@hc-sc.gc.ca; bmh-bdm@hc-sc.gc.ca

Re: Recommendations for further clarification on the draft “Policy on Listeria monocytogenes in Ready-to-Eat Foods”

Dear Dr. Duplessis,

The Retail Council of Canada (RCC) appreciates the opportunity to provide comments to help further clarify certain aspects of Health Canada’s (HC) recently published revised draft Policy on Listeria monocytogenes in Ready-to-eat Foods (Listeria policy). RCC members commend HC for conducting a second consultation on the proposed policy update to ensure prior comments were incorporated in manner that provides industry and regulators, the necessary clarity for use of the policy on-going. All of the enhancements made by HC to this draft proposal are welcomed.

RCC’s members would like to offer a few additional areas for consideration of update, as follows:

Pg. 6 Listeria policy does not apply to the following food businesses

For clarification, RCC suggests that warehouses/distribution centres that may/may not hold an SFCR license and do not manufacture products be included in this listing. Companies that do not manufacture or produce products, rather they simply store or may conduct minimal processes, such as ripening or labelling of products, should not be subject of this policy based on the activities they conduct.

2.1.1 Foods Excluded from the Listeria Policy

“Raw whole fresh fruits and raw whole fresh vegetables that have only been trimmed, cleaned, brushed, washed, graded or packaged (e.g., fresh herbs, whole or trimmed fruits and vegetables, whole leafy vegetables, microgreens, whole mushrooms, berries) as well as sprouts”

Based on this definition, trimmed and washed salad kits/mixed greens would be excluded e.g., clamshell or bagged spinach, arugula, spring mix etc. If this the case, for added clarity, we suggest that “salad kits/greens” be added to the examples. Otherwise, if not intended to be excluded these products should be highlighted elsewhere i.e., Table 1

3.1.1 Ready-to-Eat Food Manufacturers

Similar to above request regarding exclusion of food businesses, it would be helpful to include further information on what defines “manufacturer”, so that warehousing/storage and minimal processes such as ripening, are clearly indicated as out-of-scope, especially if these are the only activities conducted.

6.1.2.1 Category 2A Ready-to-Eat Foods

*“Manufacturers of Category 2A RTE foods should validate and verify their process to demonstrate that levels of *L. monocytogenes* are consistently not exceeding 100 CFU/g throughout the foods’ stated shelf-life. In order to confirm that a RTE food remains in Category 2A, manufacturers should regularly monitor their foods to demonstrate that they continue to meet the specified criteria that justify their categorization as a Category 2A RTE food. In fact, for those specific RTE foods, testing of the RTE food at the beginning of its shelf-life becomes a key process parameter to confirm that the RTE food meets the criteria that were used in the challenge study (i.e., 10-30 CFU/g). This is performed to confirm that the concentration of *L. monocytogenes*, at the beginning of the shelf-life (at time 0), never exceeds the 10-30 CFU/g level that was used as an inoculum in the challenge study (Health Canada, 2012a; 2012c).”*

Using the decision tree, there are two ways that a product may be deemed category 2A, as follows:

- a) refrigerated shelf life of 5 days or less, OR
- b) no listericidal processes, but validation studies substantiating that the food will only support growth of LM to <100 cfu/g throughout stated shelf life).

In the existing HC Policy, similar recommendations as above only apply to foods that are deemed 2A because of choice b) above, not to foods with shelf life of 5 days or less. The proposed policy no longer appears to make this distinction, but it probably should.

7.2 Environmental Sampling (Figures 2, 3 and 4) and Testing

*“Furthermore, if the review indicates that *Listeria spp.* are not being controlled (e.g., due to processing conditions that cannot eliminate *Listeria spp.* in the raw materials, due to an inadequate food safety system that cannot eliminate *Listeria spp.* from the post-process environment)”*

The example statement above is confusing. Addition of the word “or” between the two examples would clarify that they are in fact intended to be two separate examples. e.g., “... cannot eliminate *Listeria spp.* in the raw materials, OR due to an inadequate food safety system that cannot eliminate ...”

*“Collect FCS and end-product samples until 3 or more consecutive production days of FCS samples are negative for *Listeria spp.* and end-products samples are negative for *L. monocytogenes*, h. Resume routine monitoring program and...”*

Based on the sampling and corrective actions process, requiring 3 consecutive days of production for environmental sampling could add quite a long lead time from vendor testing to retail notification of an issue. As such, more definitive language is preferred to indicate the vendors “must” undertake immediate notification to the regulatory body and to vendor clients, as appropriate, where further environment monitoring is being undertaken, to allow products to be put on “hold”.

Finally, while RCC thanks HC for providing this *Listeria* policy to be “**applied in the conduct of federal food inspections**” (Pg. 4), RCC members are interested to the extent this policy might be or is used by

provincial authorities where federal oversight does not apply. RCC would appreciate continued dialogue with Health Canada for this purpose.

Thank you for your continued work to provide further consideration for industry. Should you have any questions, please let us know.

Yours sincerely,



Jason McLinton
Vice President, Grocery Division and Regulatory Affairs

About RCC

Retail is Canada's largest private sector employer with over 2.1 million Canadians working in our industry. The sector annually generates over \$76 billion in wages and employee benefits. Core retail sales (excluding vehicles and gasoline) were \$377 billion in 2018. Retail Council of Canada (RCC) members represent more than two-thirds of core retail sales in the country. RCC is a not-for-profit industry-funded association that represents small, medium and large retail businesses in every community across the country. As the Voice of Retail™ in Canada, we proudly represent more than 45,000 storefronts in all retail formats, including department, grocery, specialty, discount, independent retailers and online merchants.

RCC grocery members provide essential services and are an important source of employment in large and small communities across the country. They have strong private label programs and sell products in every food category.