



ConAgra Beef Company

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November 20, 2000



99-029P
99-029P-11
Warren Mirtsching

FSIS Docket Clerk
Food Safety and Inspection Service
United States Department of Agriculture
Room 102 Cotton Annex Building
300 12th Street SW
Washington D.C. 20250-3700

RE: FSIS Docket No. 99-029P Sharing Recall Information with State and Other
Federal Government Agencies

To Whom It May Concern:

ConAgra Beef Company, headquartered in Greeley, Colorado, is a leading beef processor operating seven facilities in six states. With extensive pathogen reduction intervention systems and testing procedures in place at each of our facilities, we are an industry leader in providing safe, wholesome beef products to our customers and consumers. I appreciate the opportunity to comment on the above-captioned docket.

ConAgra Beef Company supports efforts by the Food Safety and Inspection Service (FSIS or the agency) and other federal and state agencies to improve the timeliness and effectiveness of removing potentially harmful products from food distribution channels. We feel the proposed rule falls far short of justifying the sharing of confidential commercial information with state and other federal agencies, and in fact stands to impose an additional level of regulatory involvement that may at times confuse and delay the existing relationship between a recalling firm and FSIS. However, in an effort to present constructive comments on the rule, we recommend that the agency consider revising the proposal to reflect the following points.

1. Limit sharing of data to Class I recalls

FSIS states that sharing "confidential commercial information" with other federal agencies "is necessary to facilitate cooperation in regulatory activities and will contribute to improved public health protection." Sharing the aforementioned information with other state and federal agencies should be permitted only when there is a *reasonable probability* that the use of the product will cause a public health risk. According to the agency's definitions, Class II recalls have a *remote* probability of causing adverse health consequences and Class III recalls *will not cause* adverse health consequences. Involvement of multiple state and federal agencies under these circumstances is unwarranted and could undermine consumer trust in safe products. We recommend that sharing "confidential commercial information" should be limited to Class I recalls where

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there is a reasonable probability that the use of the product will cause serious, adverse health consequences.

2. FSIS should specify what “confidential commercial information” may be shared with federal and state agencies.

The final rule should specify what “confidential commercial information” the agency will consider sharing with state and federal agencies (*i.e.* distribution lists, customer lists, *etc.*) during a recall. Further, the agency should restrict sharing “confidential commercial information” to that which is relevant to individual states and directly assists agencies in tracking and verifying product removal. For example, receiving information on a product’s national distribution would not enhance public health in the state of Virginia. However, distribution information within the state of Virginia could be relevant to the public health of Virginia’s citizens. FSIS should determine what information would be geographically relevant to state agencies and has the greatest potential to assist the state in verifying that food products have been removed from commerce in that state.

3. FSIS should be conscientious in disseminating “confidential commercial information”

“Confidential commercial information” should only be shared with those state and federal agencies that are responsible for enforcing food safety statutes and that can assist FSIS in verifying the removal from commerce of adulterated or misbranded products. “Confidential commercial information” should not be shared with state or federal agencies that are interested in the issue, but do not play a role in implementing or enforcing food safety mandates.

4. “Confidential commercial information” should not be unrestricted without a direct request

“Confidential commercial information” should not be released to any state that does not have a confidentiality statute that prohibits the state from releasing “confidential commercial information” to the public. In addition, the agency should require state and federal agencies to submit a written request to FSIS for “confidential commercial information.” The request should be accompanied by an explanation of the state or federal agency’s need for the information and its relevance to the recall’s progression.

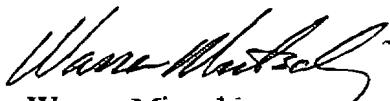
FSIS states that it will disseminate “confidential commercial information” provided that “the State government officials have provided a written statement establishing authority to protect confidential commercial information from public disclosure and a written commitment not to disclose such information without the submitter’s written permission or written confirmation from FSIS that the information is no longer confidential.” A one-time agreement by a state government to allow blanket sharing of “confidential commercial information” during recalls is only acceptable if the state has protective laws in place that disallow sharing such information with the public.

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Lastly, we request that when FSIS receives a request for "confidential commercial information" belonging to a plant, that the agency notifies the establishment immediately, as provided by 7 C.F.R. §1.11.

ConAgra Beef Company appreciates the opportunity to submit comments regarding FSIS's proposed rule, "Sharing Recall Information with State and Other Federal Government Agencies." We appreciate the agency's continued commitment to increasing food safety and maximizing the efficiency with which we achieve it. We look forward to working with you on this and other food safety issues in the future.

Sincerely,



Warren Mirtsching
Vice President, Customer and Technical Services
ConAgra Beef Company

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