

By FAX
202-720-5704
690-0486

NMA

NATIONAL MEAT ASSOCIATION®
1970 Broadway, Suite 825, Oakland, CA 94612
Ph. (510) 763-1533 or (202) 667-2108 • Fax (510) 763-6186
nma@hooker.net • http://www.nmaonline.org

(13)

November 20, 2000

FSIS Docket Clerk
Docket #99-029P
U. S. Department of Agriculture
Food Safety & Inspection Service
Room 102, Cotton Annex
300 12th Street SW
Washington, DC 20250-3700

99-029P
99-029P-13
Rosemary Mucklow

Re: Proposed Rule
Sharing Recall Information With State &
Other Federal Government Agencies
Federal Register September 19, 2000
Pages 56503 – 56505

National Meat Association represents meat packers and processors throughout the United States and speaks for them on regulatory issues. The subject proposed rulemaking is of great interest to these firms.

To protect the public health and safety, recalls of food products already in commerce are often the only way to recover product that should not be consumed for one of several reasons. National Meat Association has long believed that the most effective way to recover product is by cooperation between regulatory authorities and the company involved. Such cooperation ensures that the product to be recalled is properly identified by the company responsible for the recall since it is best able to provide distinguishing features such as the specific product name, the brand name, and distribution information. Unfortunately, recalls are usually a stressful situation for those involved, including consumers, and it is critically important to get accurate information assembled and translated to the channels that will recover the product as quickly and efficiently as possible.

Quite often, the information that may be considered necessary to effectuate a recall may also be proprietary and confidential. The protection of such information is an important consideration, since the cooperating company conducting the recall is also vulnerable from a competitive perspective when its products are being recalled.

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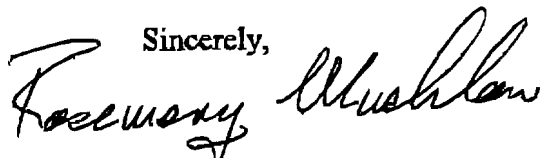
The proposed rule would permit FSIS officials to share proprietary information that they have received during the implementation of a recall with other federal agencies and with states to facilitate cooperation in regulatory activities and that such sharing will contribute to improved public health protection. The kind of non-public information that is at issue are customer lists, and sales volume data, clearly proprietary and confidential information and FSIS properly identifies in its discussion that Congress recognized the need for the federal government to be able to withhold certain categories of information from public disclosure.

National Meat Association supports the principle of cooperating with other federal agencies and state agencies that may be involved in outbreaks of food borne illness and the recall of food products to protect the public health. To the extent that sharing information with such agencies will clearly assist in product recovery, NMA believes that cooperation is appropriate. However, the Food Safety & Inspection Service has a higher burden to meet when it wants to share information that is considered proprietary and/or confidential under the Freedom of Information Act. It should provide notice and a reasonable time for company response that it intends to take this step. This will permit the company to demonstrate that it already has control of the product, or inform the FSIS that dissemination of its proprietary and confidential information will not enhance the ability to recover the product.

Finally, other federal agencies and state agencies with whom FSIS plans to share such information should sign and have on public record a *Memorandum of Understanding* that ensures that such proprietary and confidential information will be appropriately secured and available only to responsible officials for the purpose of implementing a recall, and will be destroyed when the recall is declared complete.

Finally, and once again, cooperating with other federal agencies and with state agencies is really important in a voluntary recall system to assure the greatest possible effectiveness under very trying and unpredictable circumstances. NMA, on behalf of its members, supports efforts to assure the effectiveness of recall efforts where public health and safety are at issue.

Sincerely,



Rosemary Mucklow
Executive Director