

UNITED STATES DEPARTMENT OF AGRICULTURE

FOOD SAFETY AND INSPECTION SERVICE

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PROPOSED RULE ON THE AVAILABILITY OF
LISTS OF RETAIL CONSIGNEES DURING
MEAT AND POULTRY PRODUCT RECALLS

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April 24, 2006

8:30 a.m.

USDA South Building Cafeteria
Washington, D.C.

FACILITATOR: MR. RON HICKS
Chief Operating Officer
Food Safety and Inspection Service

PARTICIPANTS:

DR. RICHARD RAYMOND
DR. BARBARA MASTERS
MR. PHILIP DERFLER

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I-N-D-E-X

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P-R-O-C-E-E-D-I-N-G-S

(9:30 a.m.)

MR. HICKS: Good morning. Good morning.
Just so we clear up something right away, I'm not Bryce Quick, Deputy Administrator, Food Safety and Inspection Service.

My name is Ron Hicks. I'm the Chief Operating Officer for Food Safety and Inspection Service. I'm standing in for Bryce Quick today, and I just want to welcome you all as we're here to accept your comments on a Proposed Rule on the Availability of Lists of Retail Consignees During Meat or Poultry Product Recalls.

We have some opening remarks that will be provided by Dr. Raymond and Dr. Masters and Phil Derfler, and then we'll have an opportunity to comment period and I'll moderate that.

There was a sign up sheet out front, if all of you want to sign it to make comments, and if you've not done so at this point, please do so before we open it up for comments and questions.

So with that, I'd like to turn it over to

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1 Dr. Raymond.

2 DR. RAYMOND: Thanks, Ron. Sometimes we're
3 victims of, you know, death by PowerPoint, and today
4 perhaps we'll get a break and it won't be death by
5 PowerPoint unless they work a miracle here in the next
6 couple of minutes, but out of courtesy to you for
7 being here at 9:30, we are going to go ahead and get
8 started, with or without technology.

9 First of all, I want to thank you all for
10 coming today. It's very important that we have this
11 meeting, very important that you be here, as we
12 discuss the recent proposed rule that would make the
13 list of retail consignees available to the FSIS
14 website during meat and poultry recalls, and therefore
15 available to the public.

16 By you being here today, you help us in what
17 Barbara Masters and my goal has been since we were
18 appointed our positions, and that's to do all of our
19 rule changes and policy setting in a very open, very
20 transparent manner. We also believe that by you being
21 here today, you can help assure us that the changes
22 that we make will be the most effective and the most

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1 efficient that they can be based on the input that we
2 will get from you during this meeting today, and also
3 during the public comment period.

4 We did something very similar with the
5 amendability rule. We actually had the public hearing
6 before we even wrote the proposed rule which was a
7 little bit of a new way to do business, and I think
8 people appreciated that, and that's why we've decided
9 to have this public hearing in the middle of the
10 comment period so you all get a chance to verbalize
11 your support for the proposed rule change.

12 I think the current recall system that is in
13 place at FSIS is a strong one. I think if you look at
14 the number of human illnesses caused by food-borne
15 bacteria, you will see that something is working.
16 Obviously industry is working hard to reduce the
17 pathogens on their product samples. We're working
18 hard to educate the public, but the recalls are also
19 an effective tool to prevent human illnesses.

20 We do believe that establishments -- if
21 improvements are to be made, we need consumers to have
22 this vital additional information to help protect

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1 themselves and their families to get products that may
2 be contaminated or adulterated or inadequately labeled
3 off of their shelves and out of their refrigerators
4 before they cause any type of human illnesses.

5 The FSIS has done several things in the last
6 decade to try to decrease food-borne illnesses through
7 recall efforts. Maybe the most important is PulseNet.
8 Just a little over 10 years ago, PulseNet was formed.
9 PulseNet has done dramatic work in linking sporadic
10 illness in States that are separated by many miles,
11 rivers, mountains, et cetera, and by linking what
12 appear to be sporadic illnesses from food-borne
13 pathogens into an outbreak, and then linking those
14 fingerprints of those pathogens with data that we have
15 from the product sampling that we do, we've been able
16 to do recalls much more quickly than we used to.
17 We've been able to be much more efficient. We've been
18 able to decrease food-borne illnesses because of
19 PulseNet.

20 About three years ago, 2004, FSIS also
21 decided that they needed to get information out to
22 State, Local and Federal officials more quickly when

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1 there was a recall, and they began using EPIX, which
2 is another CDC instrument, to communicate instantly
3 through e-mails and mailing lists and certain security
4 levels, people get certain information. EPIX got the
5 information out there more quickly.

6 In 2003, 2004, Food Safety and Inspection
7 Service also explored ways to get this information to
8 the State Health officials of what retail outlets may
9 have product that has been proven to be contaminated,
10 and there's about 14 States that currently get that
11 information when a recall is announced. But those 14
12 States, that information is not FOIA-able. The
13 Freedom of Information Act does not exist to the level
14 in most States that they have to release that
15 information. If they would have to release that
16 information, then we do not sent that to those State
17 Health officials.

18 When I was in Nebraska, as a State Health
19 official, I could not get access to the retail stores
20 where contaminated food had been sent to because
21 Nebraska could not protect that information. It
22 didn't help me.

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1 I think everyone here now by, after my nine
2 months, knows that public health is my love. It's my
3 passion. It's my background in the last 10 years.
4 And, it's my strong belief that the most important
5 tool we have in public health is education. In this
6 case, education of the consumer.

7 I believe that if we have readily available,
8 accurate information about what the product is and
9 where it was, we can educate the public and experience
10 has shown time and time again, that during any public
11 health emergency, detailed information is one of our
12 greatest tools to prevent panic, to prevent illness
13 and to prevent death. It's especially effective when
14 that information empowers individuals to take an
15 active role in protecting the health of themselves and
16 their families. It makes them the empowerer. It
17 makes them the person that can protect their children,
18 their family, the people they're preparing that food
19 for.

20 We can empower consumers simply by providing
21 additional information to help them identify recalled
22 product. Providing the public with a list of retail

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1 consignees during a meat or poultry product recall, in
2 addition to critical information already released by
3 FSIS, will be a more effective method that we
4 currently do not have at our disposal.

5 And, as I said earlier, it is critical
6 during our recall, dangerous or misbranded product, is
7 quickly and efficiently removed from the refrigerators
8 and the shelves in the homes, but it is also important
9 to insure that it's only the dangerous or misbranded
10 product that is removed from circulation. We see at
11 FSIS many times more product returned than what the
12 company actually recalled. The Agency also sees
13 products returned that were not produced by that
14 company or were produced at different times or
15 locations from where the incident occurred, where the
16 contamination occurred.

17 This is indicative of an overreaction by
18 consumers. It stems from unnecessary concerns and
19 worries and it translates into consumer distrust of
20 the system as a whole and its products. And that is
21 not good for industry and that is not good for retail
22 stores.

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1 We believe this proposed rule will improve
2 matters by helping the consumers focus only on the
3 products that are being recalled. We believe that by
4 making this retail consignee information available to
5 the consumers, that we can better assure them that
6 other similar products are safe and are wholesome.

7 We're holding this public meeting today
8 because I recognize this has been a very contentious
9 issue in the past. I've also -- I've always believed
10 in the importance of insuring that our stakeholders
11 concerns are addressed in an open, transparent manner
12 before we move forward as I've already stated.

13 This issue is no different in my mind's eye,
14 but with the change in recall data that we have seen
15 over the past five years, hopefully there will be less
16 concern today, and that's why I wanted to show a
17 couple of PowerPoints. It's secret information. I
18 can't release it. You just have to trust me.

19 My bar graphs would have shown that in 2001,
20 2002, each year we recall about 120 to 130 products,
21 that many recalls, more than two per week were issued,
22 and in 2002, the watershed year, we recalled about 63

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1 million pounds of product. Now when we say we
2 recalled 63 million pounds of product, remember, we
3 recalled also a lot of other product came back that
4 caused anxiety and concern to consumers that was not
5 contaminated, that didn't come from the plant during
6 that time period. That's a lot of product. I can
7 understand why there might be concern about 125 times
8 listing retail stores and seeing that amount of
9 product. But, you know, if you follow our statistics,
10 last year we had about 45, maybe 50 recalls. There
11 was about 3 million pounds of product, and that 3
12 million pounds of product has been consistent for the
13 last three years, 2003, 2004, 2005. The amount of
14 product recalled has gone down tremendously.

15 And before anybody says, well, that's
16 because of how you test, I also want to point out that
17 my graphs would show you that food-borne illnesses
18 have also gone down dramatically for the major players
19 like E. coli, Campylobacter and listeria. They've
20 gone down about 40 percent for each one of those
21 food-borne illnesses. Salmonella is a little bit
22 different, a character which we've talked about in

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1 the past. But the food-borne illness correlates with
2 the recalled product.

3 That drop in recalled product is for many
4 reasons. The product is safer. Industry has done a
5 good job. Regulations have helped. Test and hold is
6 a marvelous tool to prevent that product from ever
7 getting out into the public. Industry doesn't want
8 recalls. They want food safety. They have the same
9 goals that you and I do. We're all in this together.

10 In addition to less product and fewer
11 recalls, we also have seen a difference in what we
12 recall. In 2002, there were 21 recalls for E. coli,
13 4 for salmonella, 40 for listeria. In 2005, there
14 were 3 for E. coli, 0 for salmonella. There were 30
15 for listeria but the year before, there were only 13
16 in 2004 for listeria. The amount of recall from
17 contamination with pathogens has declined
18 dramatically. Half of the recalls we're seeing now,
19 the last three years, have been for product
20 alterations, been for misbranded products. It's been
21 for undeclared allergens. It's been for contaminants
22 with foreign materials. Those recalls happened very

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1 quickly. A consumer calls in and says I think I bit
2 on a piece of glass. We take a look, and we do a
3 recall quickly. The recalls for E. coli and listeria
4 and salmonella, those take months and months and
5 months for us to do the epidemiology necessary to do
6 the recall. And I would tend to agree, what's the
7 point of identifying a retail store six months down
8 the road? We're -- this is a different world today.
9 Five for E. coli and zero for salmonella last year.
10 About 25 for misbranded products, undeclared
11 allergens that people get sick and die from. Those
12 we find very quickly. Those are still on the shelves
13 and in the refrigerators of the American public's
14 homes. That's why we need to look at changing the
15 way we do business at this point in time.

16 Our only intention here today is to
17 strengthen the efficiency and the effectiveness of
18 our current recall system. As I mentioned, it's
19 gotten better with PulseNet, and it's gotten better
20 with EPIX. This is the next logical step, and your
21 participation, you expressing your viewpoints, making
22 sure you're represented, will help us insure that the

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1 best possible public health protections are in place
2 for our nation's food supply now and in the future.

3 Again, I thank you for coming and sharing
4 your ideas and comments. I'm encouraged by the
5 dedication that all of you bring to the world of food
6 safety. That's why you're here today. I'm going to
7 sit, I'm going to listen, and Dr. Masters is going to
8 sit and listen, Phil Derfler is going to sit and
9 listen, and there's a lot of our folks in the
10 audience also. This is very, very important to us,
11 and I look forward to your comments.

12 And, Dr. Masters, I believe you're next.

13 DR. MASTERS: Good morning, and I join
14 Dr. Raymond in welcoming you here today, and I also
15 want to thank you for taking your time to join us.

16 Your input regarding the ideas that will be
17 shared today are important, and we do look forward to
18 hearing your thoughts. I also want to emphasize that
19 we're changing our approach in how we go about
20 receiving your input as Dr. Raymond mentioned. As an
21 Agency, it's not normal for us to have meetings at
22 this point in the rulemaking process. In the past,

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1 we've often just put out proposed rules and asked you
2 for your written comments. But we believe in this
3 case, it's really important to have also your verbal
4 comments, as well as your written comments, and more
5 importantly, what we're really hoping to gain at this
6 meeting is for you to hear each other to discuss what
7 you think of this proposed rule and to hear views
8 being offered from one another on this issue and to
9 have that help shape your written comments as you
10 think about your ideas, as you put your written
11 comments down on this proposed rule.

12 We recognize as Dr. Raymond indicated, that
13 there's very strong views on this issue, and we're
14 very hopeful that as you hear the oral comments that
15 you may hear something that will trigger you to put
16 something more robust or learn something today that
17 will help shape your written comments on this issue.
18 That was one of the reason we thought a public meeting
19 on this issue at this point in the proposed rulemaking
20 process would be useful to help us get the most useful
21 comments possible.

22 We will take into account both the verbal

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1 comments as well as the written comments on this
2 subject. We want to do everything we can to have the
3 most rational and logical basis for any action that we
4 take.

5 You have until May 8th to provide us your
6 comments, but we've already heard an interest in
7 receiving the transcript so that you can take the
8 comments that are shared today and provide us the most
9 useful written comments. If that would be of use to
10 you, please provide us that input today or very soon
11 hereafter so we can take into account whether or not
12 we should extend this comment process on this proposed
13 rule.

14 We do believe it's very important to have a
15 transparent process, and we've been working very
16 diligently to have open communications with all of our
17 stakeholders.

18 Having open communications is very important
19 to our Agency as well as the Office of Food Safety.
20 We truly need your feedback on this issue, and if you
21 haven't signed up, we encourage you to sign up to
22 provide your verbal comments, and we also encourage

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1 you to listen to each other and again to allow that to
2 shape your written comments on this issue.

3 We appreciate your coming out today, and we
4 look forward to hearing both your verbal comments as
5 well as receiving your written comments on this issue.
6 So thank you very much.

7 Phil, if you want to walk us through the
8 rule.

9 MR. DERFLER: Good morning. I would like to
10 add my welcome to those of Dr. Masters and
11 Dr. Raymond.

12 I've been asked to sort of walk through the
13 rule, explain why we published it, what it will do,
14 and what FSIS hopes to accomplish with it.

15 Under the Meat Inspection Act and the
16 Poultry Products Inspection Act, meat and poultry
17 products are not supposed to enter commerce unless
18 FSIS inspectors have determined that the products are
19 non-adulterated or misbranded. Once they make that
20 determination, FSIS inspection personnel put the mark
21 of inspection on the product, and it's free to enter
22 commerce.

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1 We in FSIS take the mark of inspection very
2 seriously. Thus, when an adulterated or misbranded
3 product somehow slips out into commerce, we act
4 quickly and aggressively to insure that that product
5 is removed from commerce as quickly as possible. It
6 is likely that we will ask the firm to recall the
7 product once it enters commerce, and usually firms do
8 so quite readily. Frequently it's the case that the
9 firm has already determined that this product has
10 entered commerce, and they're already taking steps to
11 remove it. If for some reason, however, the firm
12 refuses to recall the product, and I should say that
13 that has almost never been the case, FSIS is prepared
14 to send out appropriate personnel to find the product
15 and detain it and then seek seizure.

16 In virtually all cases, however, the firm
17 does recall the product, and when it does, FSIS has
18 two related roles. First of all, the first role is to
19 verify that the recall proceeds in an appropriate
20 manner. FSIS does this by obtaining the recalling
21 firm's distribution list for the product and
22 conducting a series of checks to make sure that the

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1 recalling firm has notified its consignees of the
2 product about the recall and that the consignees not
3 only receive notification but they are notifying their
4 consignees.

5 The Agency's verification process is
6 described in the proposed rule. It is often time
7 consuming and resource intensive. Our personnel,
8 usually enforcement and investigation analysis
9 officers, go from level to level in the distribution
10 chain making their checks until they have traced the
11 product forward to the level of product distribution
12 to which the recall extends, usually the retail level.

13 In the process of tracing the product
14 forward, the Agency compiles a unique list of
15 consignees that handled the specific product that was
16 recalled.

17 I should point out as Dr. Raymond did, that
18 the Agency is sometimes helped by the States in making
19 these checks. As discussed in the proposed rule in
20 2002, FSIS has amended its regulations to define the
21 circumstances in which it would share with States the
22 distribution list that it receives from firms. FSIS

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1 considers these distribution lists to be confidential.
2 The Agency will only share the list with those States
3 that have the legal authority and that make a
4 commitment to protect the confidentiality of the list.
5 The process of tracing the product forward to retail
6 is, as I've said, very time consuming, often taking
7 weeks to complete. As a result of this process,
8 however, FSIS is able to determine whether the recall
9 is effective in removing the product from commerce, or
10 whether it is necessary for the Agency to act directly
11 against the product and seek detention or seizure.

12 In addition to verifying that the recall is
13 proceeding appropriately, FSIS acts to enhance the
14 effectiveness and efficiency of the recall. The
15 Agency acts to make consumers aware that a recall is
16 taking place, and to make sure that consumers are able
17 to identify the specific product that has been
18 recalled. Awareness of the recall will cause
19 consumers to check whether they purchased the product
20 and whether they have it in their refrigerator or
21 freezer. Appropriate identification of the product
22 recalled will allow consumers to readily determine

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1 whether the product they have that fits the category
2 of product recalled is, in fact, the product that was
3 recalled.

4 Over the last seven or eight years, FSIS has
5 frequently augmented the actions that it takes to make
6 consumers aware of recalls and to help them determine
7 whether they actually have the recalled product. The
8 Agency has gone from issuing press releases announcing
9 recalls in limited circumstances to issuing one each
10 time there is a Class I or Class II recall, and to
11 issuing Recall Notification Reports when there is a
12 Class III recall.

13 As stated in the proposal, FSIS sends recall
14 information to wire services and media services as
15 well as to State Health Departments and State
16 Agriculture Departments in areas where the product was
17 distributed.

18 To help the consumers identify the product,
19 FSIS makes available a description of the product, any
20 identifying codes, the name of the producing company,
21 the names of the States to which the product was
22 shipped, if there are fewer than 13.

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1 Over the last several years, FSIS has also
2 begun to post on its website a picture of the label of
3 the recalled product if one is available.

4 As stated in the proposal, FSIS considers
5 its recall process to be effective. The Agency
6 believes that the measures it has put in place are
7 effective in communicating to the public that a firm
8 has decided to recall product. FSIS also believes
9 that the recall effectiveness checks that it now
10 performs enable it to identify any breakdowns in
11 effecting the recall in the distribution chain.

12 If there is a continuing weakness in FSIS'
13 recall system, however, it is with product
14 identification. It is still the case, as Dr. Raymond
15 said, that there are recalls in which much more
16 product is returned than was recalled. There are also
17 recalls in which less product than was recalled is
18 returned. It has been suggested to FSIS by consumer
19 groups, by State and Local officials, by organizations
20 of State officials and by the agencies that audit our
21 work, the Government Accountability Office and USDA's
22 Office of the Inspector General, that making retail

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1 distribution information publicly available will
2 enhance the public's ability to identify the product
3 that is being recalled. The Agency has carefully
4 considered the information presented to us with these
5 suggestions and as a result, based on this
6 consideration, we issued the proposed rule that we are
7 here today to consider.

8 FSIS proposed to make publicly available on
9 its website, the list of the names and locations of
10 the retail consignees of the recalled meat or poultry
11 products that the Agency's EIAOs compile in the trace
12 forwards that they conduct. The Agency believes that
13 doing so will provide consumers with an important
14 additional means of identifying the product recalled.
15 If the Agency adopts this proposal, it will mean that
16 consumers will have specific identifying information
17 on the names and locations of the retail stores where
18 they could have purchased the product which should
19 provide significant additional assistance to help them
20 decide whether they have the recalled product. This
21 information with the other information that I
22 mentioned before that is made available when there is

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1 a recall, should allow consumers to readily focus on
2 the specific product that has been recalled. This
3 focus should mean that consumers will be more likely
4 to return the product recalled, and that they will be
5 less likely to return products that have nothing to do
6 with the recall.

7 We're here today to listen to your comments
8 on the tentative judgment, this tentative judgment by
9 the Agency. In commenting, we hope that you will
10 consider and address not only this judgment, but some
11 of the other important issues that FSIS needs to
12 grapple with in deciding whether, and if so, how, to
13 finalize this proposal.

14 I will quickly highlight some of these other
15 issues.

16 First, should restaurants be included in the
17 list of consignees that the Agency is proposing to
18 post. Under the proposed rule, the answer is no. In
19 the preamble to the proposal, FSIS said that it would
20 focus on product distributed to the retail level. In
21 FSIS Directive 8080.1, the Agency defines levels of
22 product distribution. It said that the retail level

1 includes all retail sales of the recalled product.
2 Restaurants are included in the user level, not the
3 retail level.

4 Moreover, the Agency made clear in the
5 preamble that the purpose of the proposal is to help
6 consumers to identify product that is subject to the
7 recall. Including restaurants in the consignee list
8 would not advance this goal. Thus, we do not intend
9 to include restaurants in the consignee list. We urge
10 you to comment on whether we should do so or not.

11 A second issue that I would like to raise
12 rose out of the fact that FSIS is not committing to a
13 particular time frame for posting consignee lists.
14 Under the proposal, the Agency will post them as soon
15 as they are compiled, which as I stated, could be
16 weeks after the recall is announced. We ask for
17 comment on whether this time lag is likely to undercut
18 the usefulness of posting the list. If so, why? If
19 not, why not?

20 Third, what would be the significance of a
21 situation in which the list that is posted is for some
22 reason not complete. If a store does not appear on

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1 the list, would it create a sense for consumers that
2 product purchased at that store is not involved in the
3 recall? Does this possibility of incomplete lists
4 undercut the usefulness of the list? Is there some
5 type of disclaimer or other information that the
6 Agency could provide with a list that explains the
7 purpose of the list and makes clear that the list
8 should not be consider definitive? What other ideas
9 do you have on this issue?

10 Finally, are there other ways that the
11 Agency can act to focus consumers on the recalled
12 product to maximize the likelihood that it is returned
13 and that safe and wholesome product that has not been
14 recalled but that share some characteristics with the
15 recalled product is not returned?

16 Again, I'd like to echo the message that
17 Dr. Masters gave. We hope that we will hear from you,
18 and that you will take this opportunity to listen but
19 also to provide us with information. Thank you.

20 MR. HICKS: I would just like to remind
21 anyone who hasn't signed up yet to provide comments,
22 that there's still time to do so. I'll be calling

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1 names in the order that they appear on the sign up
2 sheet. Generally, there will be five minutes per
3 commentor. I'll step away from the microphone while
4 you're commenting and step back up at about the three-
5 minute mark. That's just to make sure that -- five
6 minutes is just to make sure that everybody will have
7 an opportunity to comment. Obviously if we have fewer
8 commentors and more time, then you can come back and
9 provide additional comments on the second go around.

10 Since we are recording this, we would like
11 to ask all presenters to come to the microphone,
12 provide your name and who you're representing so we
13 can have it for the record, and with that, I'm going
14 to start off with the first name on the list is John
15 Munsell.

16 MR. MUNSELL: Thank you. And good morning,
17 everyone. My name is John Munsell, and I'm here today
18 representing the Foundation for Accountability and
19 Regulatory Enforcement, as well as Montana Quality
20 Foods and Processing.

21 I'm here today to speak in favor of this
22 FSIS proposal. I have two main reasons why I'm

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Comment:

1 speaking in favor of it.

2 The first one is just that I believe the
3 consumers have the right to know that the food that
4 they are purchasing is possibly subject to recall,
5 that could possibly be contaminated. Armed with this
6 kind of knowledge, then the consumer can make
7 intelligent decisions on the purchases they make for
8 their family. And with this kind of knowledge, they
9 might make alternative decisions such as instead of
10 buying the ground beef, I might buy other beef items
11 or pork or poultry, chicken, seafood, whatever.

12 And secondly, they also then would have the
13 ability to purchase their meats at a different retail
14 location, and it's true that, I admit, that some
15 packers do oppose the release of retailer names for
16 fear that other packers might benefit. However, I'd
17 suggest that this is a two-edged sword that cuts both
18 ways because in the future, if other packers
19 experience recalls, then their list of consignees
20 would also be released to the public.

21 The second reason I'm in favor of this
22 proposal, that I'd like to spend more time on, is that

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1 I believe that releasing retailer names will improve
2 how they kill, because I believe it will provide a
3 tremendous economic incentive to meat plants to
4 further improve the wholesomeness of their products,
5 since they would probably implement additional
6 corrective actions to prevent recurrences, and let me
7 explain.

8 Just imagine what would happen if a retailer
9 such as Wal-Mart or Safeway would be named in a
10 recall. First of all, they would -- they're going to
11 fear the loss of potential business to competitors,
12 other retail competitors, and they will incur the cost
13 and embarrassment of removing meat from their shelves
14 and sending it back to their meat plants. And they
15 would be justifiably angry at the meat plants for
16 having their names involved in this recall, and they
17 might respond by changing their purchasing
18 specifications requiring additional things of their
19 suppliers.

20 As you recall back in '93, when Jack in the
21 Box had their problems, they changed some of their
22 purchasing specifications so that now anyone selling

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1 ground beef to Jack in the Box must test their meat
2 every 15 minutes. Plants who are unwilling to comply
3 don't sell meat to Jack in the Box.

4 But I contend that these potential
5 improvements will be effectively circumvented unless
6 FSIS endorses and aggressively implements trace back
7 policies which are directed at the true origin of
8 contaminated meat. But this would require a watershed
9 change in existing FSIS microbiological sampling and
10 testing policies.

11 Some bacteria such as salmonella and E. coli
12 originate as you know, within the intestinal track of
13 animals, meaning that the vast majority of meat
14 contaminated with salmonella and E. coli, that
15 contamination occurs at the slaughter plant, not at
16 the down line further processing, grinding plants,
17 most of which do not slaughter.

18 So historically it's my opinion that FSIS
19 investigations and enforcement actions are prematurely
20 truncated at the down line, further processing plants
21 which do not slaughter. And, Mr. Derfler talked about
22 trace forwards, well, I think in order for this

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1 proposal to meet full success, we also have to have a
2 concomitant commitment to trace backward to the true
3 origin of contamination.

4 So in conclusion, I commend FSIS for what I
5 consider as a common sense and pro-public health
6 proposal.

7 When meat plants unintentionally issue
8 contaminated meat under commerce, this is a situation
9 where public health imperatives and consumer rights
10 take precedence over the industry's right to maintain
11 secrecy over the destination of meat subject to a
12 recall. And I can understand why meat plants don't
13 want their customers' names released to the public
14 but, you know, there's one simple solution to that, to
15 keep these customer names confidential and that is the
16 plants simply consistently produce wholesome meat.

17 So the release of consignee names is not the
18 fault of FSIS or consumers, but it's the fault of
19 sloppy sanitation procedures at the slaughterhouse.
20 And I believe that this proposal has the potential to
21 positively impact public health as much as any
22 previous Agency initiative and should be implemented.

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1 Thank you.

2 MR. HICKS: Thank you very much. Next on
3 the list is Pat Buck.

4 MS. BUCK: Good morning. I'm just going to
5 read my statement because I'm not used to doing this.

6 As you said, my name is Pat Buck, and I'm
7 representing Safe Tables Our Priorities, the national
8 non-profit, volunteer health organization dedicated to
9 preventing illness, injury and death in food-borne
10 disease. First of all, thank you for giving S.T.O.P.
11 the opportunity to express its views on this very
12 important topic. We are glad to give voice to the
13 thousands of victims who have suffered serious food-
14 borne disease.

15 Safe Tables Our Priorities applauds and
16 supports FSIS' new proposal to make available to the
17 public lists of retail consignees of meat and poultry
18 products that have been voluntarily recalled by the
19 federally inspected meat or poultry establishments
20 when the product has been distributed to the retail
21 level.

22 For the past 13 years, S.T.O.P. has

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1 maintained that supplying the public with more
2 specific information on where recalled product was
3 distributed would lead to easier identification and
4 prevention of unknowingly consuming potentially
5 harmful product. We are glad that the Agency has seen
6 the value to public health that this type of action
7 will provide.

8 Consumers want and need more information in
9 order to make informed decisions about the food that
10 they consume or serve to their families. Consumers
11 know where they shop. The current system baffles
12 consumers with long lists of case/lot numbers to which
13 they do not have easy access and creates an
14 unnecessary barrier. Learning the name of the
15 retailer or retailers involved in a recall would
16 provide a signal to consumers to check the meat and
17 poultry products in their refrigerators or freezers.
18 It would also prompt individuals exhibiting symptoms
19 of food-borne illness after ingesting the recalled
20 product to seek medical attention and enable to the
21 medical community to quickly identify and begin
22 treatment for the pathogen of concern.

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1 Further, such information would also prompt
2 the medical community and the public health personnel
3 to ask more specific questions about food intake when
4 individuals present symptoms of a food-borne illness,
5 and this again would lead to faster diagnosis and
6 treatment.

7 While supportive of this proposal, S.T.O.P.
8 urges the Agency to make the proposed rule even
9 stronger by including two things. In addition to
10 posting the list of retail consignees on the website,
11 FSIS should also list them in the press release
12 announcing the recall. Most consumers will learn of
13 the recalled product via media reports and journalists
14 working on a deadline may only use whatever is in the
15 press release in their coverage.

16 Further, expecting consumers or journalists
17 to go to the FSIS website to find the list of retail
18 providers associated with the recall is not user
19 friendly. Relying on web information is based on the
20 notion that most people, most consumers, have
21 computers and they are skilled with using the
22 Internet. This simply is not true. As a teacher, I

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1 know that the majority of consumers either do not own
2 a computer or they are not familiar with finding
3 specific information on the Internet. By only
4 providing these lists of retail consignees of meat and
5 poultry products involved in a recall on the web page,
6 the Agency is unintentionally depriving millions of
7 consumers information that could deeply impact on
8 their health.

9 The second point is this. FSIS should
10 expand the definition of retail consignees to include
11 user level establishments, hotels, restaurants, and
12 other food service institutional providers. Currently
13 FSIS is proposing to define the list of consignees to
14 the retail level as you already mentioned. Again,
15 expecting consumers and journalists to go looking for
16 additional information to determine where the recalled
17 product has been distributed is not user friendly and
18 could lead to unnecessary illness, injury or death.

19 S.T.O.P. truly believes that FSIS is
20 proposing this action to increase consumer awareness
21 about recalled products in order to prevent adverse
22 health outcomes. S.T.O.P. feels that if the Agency

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1 hopes to meet this goal, it needs to expand the list
2 of retail consignees and to include this list in the
3 press release announcing the recall.

4 According to the CDC estimates, each year
5 176 million people are afflicted with food-borne
6 disease, 325,000 are hospitalized and 5,000 die. When
7 over half of a country's population is being affected
8 by a disease, then that disease is classified as an
9 epidemic and despite all the efforts that FSIS has
10 expended on this problem over the several years,
11 S.T.O.P. is still getting way too many calls from
12 people whose loved ones have suffered serious food-
13 borne disease episodes. We try to console them and
14 help them because we know from personal experience
15 that after a serious food-borne disease encounter,
16 your life is never the same. Serious food-borne
17 disease is brutal and leaves a lasting impression on
18 its victims and those associated with the victims.

19 S.T.O.P. feels that this shift in FSIS'
20 recall notification process will help prevent food-
21 borne illness, and we are happy to support this
22 initiative. Thank you for allowing me to speak.

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1 S.T.O.P. will be submitting written comments based on
2 what is said today, and S.T.O.P. is requesting that
3 FSIS make a written transcript of this public meeting
4 available as soon as possible and S.T.O.P. asks FSIS
5 to extend the written comment period until at least
6 one week after the transcript is published on its
7 website. Thank you very much.

8 MR. HICKS: Thank you. Next on the list is
9 Susanne Keller.

10 MS. KELLER: I've just returned from China,
11 and I wonder if I might have a moment. I arrived late
12 this morning. Can I give my spot up to somebody else?

13 MR. HICKS: Absolutely. You can to come
14 back a different time?

15 MS. KELLER: Yeah.

16 MR. HICKS: Absolutely.

17 MS. KELLER: Yeah, thank you. I'll remain
18 until the end if necessary.

19 MR. HICKS: All right.

20 MS. KELLER: Thank you.

21 MR. HICKS: Thank you. Next is Mark Dopp.

22 MR. DOPP: Thank you, Ron. Let me say that

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1 I want to echo the request for an extension that was
2 just made, but actually, I'd ask that you extend it
3 say for 30 days after the transcript is made available
4 rather than a week. It's kind of a short time frame
5 for people to work on their comments, et cetera.
6 Anyway, back to the written text here.

7 Good morning. My name is Mark Dopp. I'm
8 the Senior Vice President and general counsel for the
9 American Meat Institute. I want to say that I
10 appreciate the opportunity to provide comments on
11 behalf of AMI concerning this proposed rule. We, of
12 course, will also be supplementing our testimony this
13 morning with more detailed written comments.

14 Let me also say as an initial point, that
15 AMI agrees with Food Safety and Inspection Service's
16 conclusions. However, AMI agrees not with the
17 conclusions in the preamble to this proposal, rather
18 we agree with the Agency's conclusion drawn in 2002,
19 when, in analyzing the very issue presented here, FSIS
20 has concluded that the Agency's ability to verify that
21 recalls were proceeding effectively would be
22 significantly hampered as a result of this type of

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1 action, and that the public health would consequently
2 suffer. That conclusion was correct in 2002, and it
3 is correct today as well.

4 It is beyond dispute that in the event of a
5 recall industry and Government should communicate
6 information to consumers that will help identify
7 products subject to recall. The existing recall
8 procedures encourage consumers to do the single most
9 important thing to avoid consuming the products
10 subject to recall, check the product for identifying
11 characteristics to determine if that product is
12 subject to recall. Unfortunately, this proposal does
13 nothing to add that process. Instead, it is fraught
14 with problems, which could adversely affect consumers
15 and the public health.

16 Specifically, the preamble fails to consider
17 at all the problem's negative impacts. First, the
18 proposal could inadvertently provide consumers with a
19 false sense of security that could place them at
20 greater risk. If, as has been suggested, the retail
21 consignee list is posted and updated over time, a
22 considerable time I might add, as the information is

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1 gathered by FSIS, such an approach presents the very
2 real possibility of a consumer checking the website,
3 not finding the store where he or she shopped because
4 the list is incomplete, and using the product subject
5 to recall. That is not in the consumer's interest.

6 In the alternative, the Agency could post
7 the list only after all retail stores are identified
8 through the FSIS verification process which
9 Mr. Derfler I believe identified as could take several
10 weeks. That process certainly will take several days,
11 could take several weeks, with the list posted well
12 after the press release that provides the meaningful
13 information after that press release is issued.

14 Moreover, the proposal presents a logistical
15 problem for the Agency. The web posting will only be
16 complete if FSIS officials visit every single
17 intermediate distribution entity between the packer
18 and the ultimate retailer. That is a process that
19 they do not follow today. In short, failure by FSIS
20 to fulfill any of those tasks will lead to an
21 incomplete list, possibly leading some consumers to
22 believe wrongly that the product that they purchased

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1 is not subject to recall.

2 Second, the preamble suggests that if retail
3 consignees are identified, consumers will focus on the
4 products that are recalled. However, it seems far
5 more likely that this approach will encourage people
6 to check the product only if they remember visiting a
7 retailer that has been identified by the Agency. The
8 proposed rule, for example, does not take into account
9 store to store transfers and other similar
10 transactions that take place in the retail community
11 and elsewhere.

12 Third, contrary to the preamble's assertion,
13 publishing the list of retail consignees will almost
14 certainly increase the likelihood that many products
15 beyond the scope of the recall will be returned to
16 retail establishments. The very mention of the retail
17 venue stands to trump the product codes and will
18 result in mass concern and mass return particularly in
19 light of the almost certain delay in time between the
20 publication of the press release and the compilation
21 of the relevant retail consignee list.

22 In conclusion, FSIS was correct in 2002.

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1 This proposal is not an appropriate approach. For
2 these reasons, FSIS should reconsider this proposal.
3 I appreciate the opportunity to submit these comments.
4 Thank you very much.

5 MR. HICKS: Thank you, Mark. I'd like to
6 invite James Hodges next.

7 MR. HODGES: Thank you. My name is Jim
8 Hodges. Today I'm representing the National Meat
9 Canners Association. NMCA is the national trade
10 association representing manufacturers of shelf stable
11 meat, poultry and seafood products.

12 NMCA is supportive of the USDA's objective
13 to enhance the safety of the food supply, but the
14 proposal to make available lists of retail consignees
15 during product recalls will not accomplish that
16 objective. In fact, the proposal will have an adverse
17 effect on recall efficacy.

18 Nowhere in the proposal does the Agency
19 provide any factual evidence that the effectiveness of
20 recalls will be enhanced if the proposal is adopted.
21 FSIS has provided nothing other than the opinion of
22 certain parties and individuals to substantiate its

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1 assertions. The Agency has a responsibility to
2 promulgate rules that are based on facts and empirical
3 data. Opinion is simply not an appropriate basis to
4 justify publication of such a significant proposal.

5 Furthermore, the Agency apparently did not
6 consider the possible negative consequences of the
7 proposed actions. The existing Agency procedures
8 encourage all consumers to do the single most
9 important thing to avoid consuming a product subject
10 to recall. That is, to check the product in their
11 possession.

12 The Agency suggests that if the retail
13 consignees are identified, consumers will focus on the
14 products that are recalled. However, it seems far
15 more likely that such an approach would encourage
16 people to check the product only if they remember
17 visiting a particular retailer that is identified.
18 That will, in fact, decrease the effectiveness of the
19 current recall procedures.

20 The proposal will further confuse an already
21 effective recall process. When recalls needlessly
22 involve consumers who do not own recalled product,

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1 consumers may become immune to the recalls and ignore
2 important information.

3 Some have suggested erroneously that
4 publication of retail consignees that have handled
5 recalled product will somehow encourage processors to
6 make manufacturing adjustments to avoid a recall.
7 Contrary to that opinion, manufacturers work
8 diligently every day to avoid recalls. It is not in a
9 company's best interest to be involved in any recall
10 of any kind.

11 Furthermore, contrary to the Agency's
12 assertions, the confidential commercial business
13 information that the Agency proposes to release is
14 clearly exempt from disclosure under the Freedom of
15 Information Act.

16 We along with others also suggest that a
17 transcript of this meeting be made available as soon
18 as possible, to facilitate the filing of written
19 comments by our association and others.

20 In conclusion, the National Meat Canners
21 Association strongly urges the Agency to withdraw its
22 published proposal in the interest of maintaining an

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1 effective recall process.

2 MR. HICKS: Thank you, Jim. Next on the
3 list is Lloyd Howtz.

4 MR. HOWTZ: Good morning. I am Lloyd Howtz,
5 Senior Director of Food Inspection Issues with the
6 Food Products Association.

7 FPA appreciates the opportunity to comment
8 on this proposed rulemaking which FSIS believes will
9 improve efficiency of recalls and reduce the amount of
10 non-implicated product that is typically returned
11 during recalls.

12 FPA supports effective policies and
13 procedures that promptly provide consumers with
14 information they need to identify any implicated
15 product in their possession so that it will not be
16 consumed.

17 Unfortunately, the information to be
18 provided under this proposal, we believe will not be
19 timely nor is it required by consumers to identify
20 implicated product which might be in their possession.
21 Thus, the proposed regulation will not improve the
22 efficiency of product recalls as suggested in the

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1 preamble to the rule.

2 Furthermore, the retail consignee list that
3 FSIS proposes to post on its website will be
4 incomplete if the Agency either posts a partial list
5 to be updated later, or fails to contact all of the
6 intermediate consignees, or if product initially sent
7 to one store is subsequently transferred to another
8 store, or if product is purchased at a club or
9 warehouse store for subsequent resale at a smaller
10 retail establishment.

11 And this leads to our most serious concern
12 about the proposed rule. In the case of potentially
13 hazardous product in consumers' pantries, partial
14 information will be worse than no information at all
15 because of the potential for harm if an incomplete
16 list of consignees gives consumers the false
17 impression that a product was not carried at their
18 local grocery store when in actual fact it was. We
19 believe this concern alone is basis enough for FSIS
20 not to proceed with this rulemaking.

21 We wish to note that FSIS acknowledges in
22 the preamble that current recall procedures are

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1 effective. We fully concur with this. One key reason
2 for this is that because in the vast majority of
3 cases, all of the information needed by consumers to
4 identify and to properly dispose of recalled product
5 in their possession is contained in the FSIS' press
6 release and the Recall Notification Report posted on
7 the FSIS website at the initiation of a recall, not
8 days or weeks later.

9 Regardless of where it might have been
10 purchased, if a consumer has a product of the
11 specified container size that bears the particular
12 brand name and production or code lot, he or she will
13 know that this is the product being recalled and will
14 be able to take appropriate actions.

15 As a related matter, we do believe that
16 consumer recognition of recalled products is enhanced
17 by the relatively recently initiated Agency practice
18 of posting pictures of the product labels on the
19 website.

20 Another Agency supposition is that consumers
21 armed with knowledge of the specific retail stores
22 that sold recalled product would be less likely to

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1 return products that are not implicated in the recall.
2 Based on our many years of experience with product
3 recalls, we're left unconvinced that the proposal
4 would actually lead to less non-implicated product
5 being returned. Rather, we believe that more would be
6 returned. Even while the chance of omitting some
7 stores from the posted consignee list is unacceptably
8 high, the probability of including on the list many
9 stores that did not receive the recalled product is
10 even higher.

11 We thank you for this opportunity to
12 comment. We will be submitting more detailed
13 comments, written comments before the comment
14 deadline, and we would also support an extension of
15 that comment period and publication of a transcript.

16 MR. HICKS: Thank you, Lloyd. Next is Chris
17 Waldrop.

18 MR. WALDROP: Good morning. My name is
19 Chris Waldrop. I'm from Consumer Federation of
20 America.

21 Consumer Federation supports this proposal
22 and agrees with FSIS' assertion that providing

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1 information to the public identifying the retail
2 consignees of retail recalled products will enhance
3 the efficiency of recalls by helping consumers
4 properly identify recalled products that may be in
5 their possession.

6 CFA is pleased that FSIS is adopting an open
7 and transparent approach not only in this process of
8 rulemaking but also in order to help protect the
9 public health through this rule.

10 However, CFA recommends that FSIS reconsider
11 its decision to not include the names of intermediate
12 distributors of recalled product. We would encourage
13 FSIS to include restaurants, fast food restaurants and
14 other particular establishments in this proposed rule.

15 If these distributors have contact with
16 consumers in any way, their names and locations should
17 be identified to the public in the event that a
18 product they've handled is involved in a recall. If
19 the consumer becomes sick, such information would
20 allow public health officials to more quickly trace
21 the illness to a particular distributor and provide
22 more robust information for an epidemiological

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1 investigation.

2 CFA strongly suggests the Agency not only
3 post the list of retail consignees on its website, but
4 make every effort to disseminate the information as
5 widely as possible through press releases,
6 communication with State agencies and public health
7 officials and other means available.

8 CFA would also recommend that FSIS display
9 this information in a prominent place on its website
10 so the consumers and other interested parties who have
11 access to the Internet can quickly and easily find it
12 in the event of a recall.

13 CFA urges FSIS to continue providing
14 pictures of the recalled product when applicable as
15 visual representation of the recalled product allows
16 consumers to more quickly and accurately identify
17 them.

18 Finally, CFA notes that FSIS intends to
19 identify retail consignees of recalled meat and
20 poultry products and their locations. Since one town
21 or city may have several locations of a particular
22 grocery store, CFA recommends that the Agency identify

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1 the retail consignee by its precise location including
2 the physical address of the store. Thank you.

3 MR. HICKS: Thanks, Chris. Michael Rybolt.

4 MR. RYBOLT: Thank you. My name is Michael
5 Rybolt. I'm here with the National Turkey Federation.
6 The National Turkey Federation appreciates the
7 opportunity to comment today.

8 NTF is the national trade association
9 representing nearly 100 percent of the turkey
10 processors, growers and allied industries. The NTA is
11 an advocate for all segments of the U.S. turkey
12 industry providing services and conducting activities
13 which increase demand for its members' products and
14 protect and enhance the ability to effectively and
15 profitably provide wholesome, high quality and
16 nutritious turkey products. It is the only trade
17 association representing the turkey industry
18 exclusively.

19 In regard to the Agency's proposed rule to
20 publish the list of retail consignees during a recall,
21 the turkey industry shares the belief with the Agency
22 that providing accurate and timely information to the

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1 consuming public is vital during a meat or poultry
2 product recall. However, the proposed rule does not
3 appear to us to be of any value and runs the risk of
4 diverting the consumers' attention from the vital
5 information needed to properly identify the implicated
6 product during a product recall.

7 Currently, the industry provides all
8 necessary information in the unfortunate event of a
9 product recall. This information allows for clear and
10 concise identification of recalled product to help
11 consumers return the implicated product. The Agency's
12 proposed rule does not provide clarity. Rather, it is
13 our opinion that the proposed actions would have a
14 deleterious effect on the recall process and add
15 confusion to the consumer by diluting the necessary
16 information as Bill described earlier.

17 By providing too much information, the
18 proposed rule will serve not to improve the recall
19 process, but rather it serves to be counterproductive
20 and could increase the returns of product not
21 implicated in a recall contrary to the Agency's
22 thoughts detailed in the proposal.

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1 Additionally, we do not understand how the
2 Agency intends to provide the list of retail
3 establishments, either once a complete list is
4 tabulated or on a continuous basis, both of which have
5 some inherent problems.

6 If the Agency intends to provide the list of
7 retail outlets once the list is completed, there seems
8 to be little value. The proposed rule indicates that
9 the Agency will complete the list as it conducts its
10 recall effectiveness checks, which takes several days
11 to weeks as Bill discussed earlier. Should the Agency
12 decide to post the retail outlets under this scenario,
13 there again seems to be little value to the consuming
14 public.

15 Under the second scenario, should the Agency
16 provide the list of retail establishments as it
17 compiles a list during the recall effectiveness
18 checks, there is ample room for erroneous information
19 to be provided to the consumer. In this scenario, the
20 information tabulated may omit retail establishments
21 that, in fact, sold implicated product, therefore
22 misleading the consumer if their store is not on the

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1 list. Also the list published by the Agency may, in
2 fact, contain retail outlets that did not distribute
3 the implicated product, therefore increasing the
4 likelihood of non-implicated product being returned.

5 In closing, I would like to stress that the
6 National Turkey Federation agrees that providing
7 accurate and concise information to the consumer in a
8 timely manner mitigates potential exposure to recalled
9 product. However, for the reasons discussed
10 previously, we feel the proposed rule will have a
11 negative effect rather than a positive effect that the
12 Agency discussed in the proposal. We therefore
13 request the Agency to reconsider the proposed rule and
14 conduct a data analysis, if data exists, to determine
15 the potential public health impact, if one exists.

16 We also join with the other associations and
17 request an extension along with the publication of the
18 transcript from this meeting. Thank you.

19 MR. HICKS: Thanks, Mike. Next is Tom
20 Wenning.

21 MR. WENNING: Good morning. My name is Tom
22 Wenning, and I'm Senior Vice President and general

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1 counsel for the National Grocers Association.

2 NGA is the national trade association that
3 represents independent retailers and the wholesalers
4 that service them. NGA members also have retailers
5 that are self-distributing, operating their own food
6 distribution centers.

7 I'd like to comment this morning on a number
8 of items. The first is our feeling that the proposal
9 raises more questions than it answers. We couldn't
10 agree more with consumer groups or USDA that there's a
11 need for timely, reliable, accurate information about
12 the product to be provided to consumers. NGA's goals
13 and its members' goals, anytime there is a product or
14 a Class I or Class II recall, is to have that product
15 removed from the shelf and taken back from the
16 consumers as soon as possible, and as quickly as
17 possible in order to protect the public health and
18 safety.

19 As we look at the rule, there are a number
20 of questions that are raised about the question of
21 timeliness. If there is going to be a publication of
22 the list of retail consignees, the question is raised

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1 when will that list be published and accumulated? If
2 it is raised and rolled out individually as the
3 information is gathered, there's the likelihood that
4 retail locations will not be complete on the list, and
5 consumers will be misled that they may have shopped at
6 one store and purchased a product there, and that the
7 retail location is not on the list and they could
8 assume that their products are safe. If it is waited
9 the weeks that has been discussed this morning, the
10 consumers will be getting the information too late,
11 which comes back to our original point, that we think
12 the essential information is having the information
13 about the specific product in the consumers' hands as
14 soon as possible.

15 Second, the reliability of the information,
16 we think it's likely that the list that will be
17 compiled may be inaccurate. A lot of times retailers
18 or their wholesalers may distribute to more than one
19 location. They may or may not have received that
20 information and the need to locate that specific
21 location will take USDA more resources and more time
22 to accumulate and to track down.

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1 I guess we would conclude by saying that we
2 think that USDA needs to go back and revisit this. We
3 think that also we would second the recommendation for
4 an extension of time. We think that there are
5 numerous questions that are not addressed on the
6 public record or in the proposal that need to be
7 expanded upon by USDA. Thank you.

8 MR. HICKS: Thanks, Tom. Next is Brett
9 Schwemer.

10 MR. SCHWEMER: Good morning. My name is
11 Brett Schwemer, and I'm here today representing the
12 National Meat Association.

13 The National Meat Association appreciates
14 this opportunity to comment on the Food Safety and
15 Inspection Service proposed rule to make available a
16 list of retail consignees during meat and poultry
17 recalls. NMA will submit more detailed comments to
18 FSIS Docket 2006-0009 before the May 8, 2006 deadline.

19 NMA, organized in 1946, represents the
20 interests of meat packers and processors throughout
21 the United States. Our general membership, which
22 consists of over 300, has always supported efforts to

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1 improve the effectiveness of recalls and to provide
2 consumers with all information necessary to identify
3 and remove potentially dangerous product from the
4 marketplace.

5 Unfortunately, FSIS has not presented any
6 evidence that the release of confidential retail
7 customer lists will achieve these objectives, or that
8 the potential value of this information would outweigh
9 the competitive harm that would be caused to the
10 industry by its release.

11 Indeed, rather than making recalls more
12 efficient, it is highly likely that the release of
13 this information will cause more confusion and
14 uncertainty with consumers, lead consumers to focus
15 less on important product identification information
16 and more on potentially incorrect and misleading
17 information, and result in consumers returning more
18 product that's covered by the recall instead of less.

19 When there is a recall of potentially
20 dangerous product, the main objective of both industry
21 and the Agency is to provide consumers with timely and
22 reliable information so that they can identify

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1 affected product and dispose of it prior to
2 consumption. This objective has been achieved by
3 immediate dissemination of product identification
4 information in Agency press releases and the Recall
5 Notification Reports that are provided to the
6 localities in which the product was sold. The Agency
7 has acknowledged in its proposed rule and other public
8 records that this method has been effective.

9 Publishing a list of retail consignees on
10 FSIS' website, weeks or sometimes months after a
11 recall, will not aid consumers in identifying and
12 disposing of affected products. First, posting
13 information on a website for consumers presupposes the
14 consumers will know to check a website for this
15 information or that consumers either purchase all
16 their items from one store or from one location or
17 keep sales receipts, which would identify the store
18 location where they purchased the product.

19 Second, even if consumers know to check the
20 Agency's website or know where they purchased the
21 specific product, releasing a list of retail
22 consignees could distract consumers from the most

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1 important information available to them, the product
2 identification information. In fact, it is
3 conceivable that some consumers will wait until the
4 retail consignee list comes out before deciding to
5 check the refrigerators or pantries. If a consumer
6 later forgets to check the website or the retail
7 consignee list is inaccurate, the consumer could eat
8 potentially hazardous product.

9 Third, the Agency assumes that all
10 information on its website will be accurate and
11 complete. According to the proposal, the Agency will
12 post the names of retail consignees on its website, as
13 the Agency collects this information pursuant to its
14 recall effectiveness checks. Unfortunately, it is not
15 uncommon for the Agency to have incomplete or
16 inaccurate lists of retail consignees from their
17 effectiveness checks.

18 Intermediate distribution records could be
19 incomplete or affected products could find their way
20 to other retail customers that are not identified on
21 these records. The failure to include a particular
22 retail consignee on the Agency's website or the

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1 failure to post the name of a particular retail
2 consignee on the website in a timely manner, could
3 cause a false sense of security resulting in a person
4 consuming a potentially hazardous product.

5 Faced with these real concerns, the Agency
6 does not provide any evidence that its proposal would
7 benefit public safety. It has not provided any
8 explanation whatsoever for changing its position that
9 retail consignees constitutes confidential commercial
10 information.

11 On April 24, 2002, FSIS published a final
12 rule, which enabled FSIS to share confidential lists
13 with State and other Federal agencies for the purpose
14 of aiding in their recall verification process by
15 enlisting their assistance in recall effectiveness
16 checks. However, FSIS has long recognized that this
17 distribution list is confidential commercial
18 information, valuable to a firm and to its competitors
19 and was protected from mandatory public disclosure by
20 exemption for the Freedom of Information Act.

21 FSIS does not offer an explanation of how
22 information once regarded as confidential commercial

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1 information and protected from mandatory public
2 disclosure by exemption for the FOIA is no longer
3 valuable to its firms or competitors. On the
4 contrary, the publication of this information would be
5 extremely advantageous to a firm's competitors. A
6 competitor would have the ability to identify specific
7 retail locations where products have been removed and
8 then offer their products as an immediate substitute
9 thus placing firms undergoing a voluntary recall at
10 risk of losing their customer base.

11 The proposed change could be destructive
12 especially to small firms who would be subjected to
13 competitive piracy by web smart larger firms accessing
14 their most important asset, their customer list.

15 In consideration of the aforementioned
16 comments, we request the proposed rule be abandoned.

17 In the alternative, we request that it be
18 reissued for review and comment under the condition
19 that it also include an economic impact study
20 assessing the potential for serious economic loss due
21 to competitors assessing confidential customer
22 information.

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1 In addition, request that FSIS present
2 supporting evidence that would substantially claims
3 how publicizing confidential customer information
4 lists will expedite recalls beyond present day
5 capabilities. Thank you.

6 MR. HICKS: Thank you. Tony Corbo.

7 MR. CORBO: Thank you. I'm Tony Corbo. I'm
8 with the consumer organization, Food and Water Watch,
9 and first I would like to subscribe to the comments
10 that were given by Chris Waldrop and Patricia Buck and
11 the courageous John Munsell.

12 I wanted to, first of all, compliment the
13 Agency for proposing this rule. It's a great start,
14 but what I'd like to do at this point is to engage in
15 a dialogue with the Agency about four particular
16 recalls that I got off of your website, and the press
17 releases pretty much get to what this rule would do,
18 and I was wondering whether you all had to engage in
19 any extraordinary efforts to get as much information
20 on the recalls. They were all Class I recalls.

21 The first one, November 8, 2005, title of
22 the new release, "California Firm Recalls Ready-to-Eat

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1 Chicken Product for Possible Listeria Contamination."
2 Garden Leaf Foods, a Gardena, California firm is
3 voluntarily recalling approximately 275 pounds of
4 ready-to-each chicken product that may be contaminated
5 with listeria monocytogenes. The product subject to
6 recall is 10-ounce packages of Trader Joe's Herb
7 Chicken Wrap with Mustard Vinaigrette. The deli wraps
8 were produced on November 1st and distributed to
9 retail stores in Arizona, California, Nevada and New
10 Mexico.

11 The next recall, October 22, 2005,
12 Massachusetts firm recalls ready-to-eat meat and
13 poultry products for listeria contamination. Ian's
14 Natural Foods, a Revere, Massachusetts firm is
15 voluntarily recalling approximately 11,200 pounds of
16 ready-to-eat meat and poultry products that may be
17 contaminated with listeria monocytogenes. The
18 products subject to recall are 12-ounce packages of
19 Trader Joe-San's Teriyaki Chicken with Basmati Rice
20 and there's a whole litany of other Trader Joe
21 products listed. And it goes on to say that the
22 products were produced on various dates between

1 October 12th and 18th, and were shipped to retail
2 stores in Connecticut, Delaware, Maryland, New York,
3 New Jersey, Pennsylvania, Virginia and Massachusetts.

4 The third recall dated March 25, 2005,
5 California firm recalls chicken products for possible
6 listeria contamination. Day-Lee Foods, Incorporated,
7 a Santa Fe Springs, California firm is voluntarily
8 recalling approximately 12,500 pounds of chicken
9 products that may be contaminated with listeria
10 monocytogenes. The products subject to recall are
11 approximately 32-pound boxes of Trader Joe's Teriyaki
12 Chicken Wings and Drumettes. The chicken products
13 were produced on August 27, 2004, and distributed to
14 retail stores in Arizona, California, Nevada, New
15 Mexico, Oregon and Washington.

16 The fourth recall dated December 17, 2004,
17 California firm recalls pork products because of
18 mislabeling. Day-Lee Foods, a Santa Fe Springs,
19 California establishment is voluntarily recalling
20 approximately 25,000 pounds of pork filled gyozas
21 because of mislabeling. The packages state that the
22 gyozas are filled with pork but they may instead

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1 contain shrimp, a known allergen. The product subject
2 to recall are one pound bags of Trader Joe's Pork
3 Gyoza Potstickers, Pork and Vegetable Dumplings. The
4 gyozas were produced on September 15th, and were
5 potentially sold from Trader Joe's retail stores in
6 Arizona, California, Connecticut, Delaware, Illinois,
7 Indiana, Maryland, Massachusetts, Michigan, Missouri,
8 New Jersey, New Mexico, New York, Nevada, Ohio,
9 Oregon, Pennsylvania, Virginia and Washington.

10 The point I'm trying to make is here you're
11 identifying, you're identifying the retail stores
12 where these products were shipped to, and you're
13 identifying the States where the contaminated product
14 may have entered those retail stores. Did you all
15 have to enter into any special arrangement with Trader
16 Joe's to identify them by name? You also had the
17 pictures of the products which is another -- I want to
18 compliment you on doing that because the FDA has
19 resisted doing that, and, and -- for their recalls,
20 and I really compliment FSIS for doing that, but did
21 you have to enter into any special arrangements to
22 identify Trader Joe's by name in these recalls?

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1 MR. DERFLER: No. It's the information we
2 get today, and this is about providing more specific
3 information about the Trader Joe's stores. I think
4 that's the question.

5 MR. HICKS: Thanks, Tony. Ms. Keller, would
6 you like to make some comments?

7 MS. KELLER: Good morning, and thank you for
8 this opportunity to speak. I apologize for my sort of
9 inability to define exactly where I am because I'm
10 working on a different time zone. I've just returned
11 from China, as I guess I said earlier, and as you can
12 clearly see by my white tresses, I am a senior, and
13 occasionally get little perks of it such as discounted
14 tickets at the IMAX Theater, and over the 40 plus
15 years of marriage, I prepared thousands of meals, not
16 only in the United States but also in Europe, Asia,
17 Africa, the Arabian Peninsula, India, the subcontinent
18 of India. I've prepared meals in Australia.

19 But one of the most memorable meals that was
20 prepared for me occurred almost precisely 39 years ago
21 on approximately April 16, 1967, when I, a brand new
22 mother, returned home carrying my first daughter. Our

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1 best friends were waiting at my home, welcoming my
2 husband and me and daughter, with a full meal of
3 turkey, dressing, gravy, veggies, all the trimmings.
4 In the intervening years, I've roasted lots of
5 turkeys, perhaps on the average of once a month, and
6 anybody that I knew that has a baby, I do the same
7 thing that was done for me. That's a lot of turkey.

8 Is the meat packing industry aware that some
9 turkeys come with little extruded plastic pop ups
10 which indicate the turkey is adequately and safely
11 roasted to the proper temperature? The turkey
12 industry does not seem to leave that responsibility
13 always to the customer, whether or not the meat is
14 safe.

15 If the poultry industry can use these pop up
16 meat thermometers, cannot also the triumvirate packers
17 and all packers do this rather than place
18 responsibility for the safety of the food with the
19 customer who is preparing the meat?

20 Hey, I've got a beef with the packers who
21 don't accept the responsibility.

22 My husband and I have an international

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1 company. It's small. You probably never heard of it
2 but it keeps us abroad all but a few months annually.
3 If you've traveled or worked in Asia, you may have had
4 a Mac attack when you spied a McDonald's. In Asia,
5 American fast food establishments are becoming
6 ubiquitous, common. It's not difficult to find golden
7 arches and snap photos of your family sitting with
8 Ronald McDonald and have Asian faces in the
9 background.

10 The former Port of Hanoi is now known by its
11 Chinese name, Xiamen. That southeastern port handles
12 the ninth or tenth greatest tonnage of the world.
13 Atop Xiamen's current tallest building along the
14 seacoast with magnificent views is the Pizza Hut
15 Restaurant. That is the destination of many travelers
16 who come to this beautiful southeastern city, which is
17 known for its flowers and many other fine aspects. It
18 is a destination of tourism. I see them coming all
19 the time, and even a bigger part is Shenzhen, directly
20 north of Hong Kong, which now ships more than Hong
21 Kong, which was formerly the largest port of China.
22 From Shenzhen, 75 percent of America's holiday

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1 decorations are shipped, trees, tinsel, bulbs, Santas,
2 everything. Seventy-five percent. Can you imagine?
3 Take the whole nation and get 75 percent of its
4 merchandise out of one port. These are -- being made
5 in China. The Shenzhen markets, the street merchants,
6 the covered bazaar, department stores, buzz like a
7 beehive. The Chinese love to shop. They love to eat.
8 They're out filling the streets as though you are on
9 New York Times Square on New Year's. It's to
10 everybody's advantage to have a meeting place for
11 friends, family and business colleagues.

12 The last time I was in McDonald's, I met an
13 investment banker from Beijing but I think I was in
14 Chengdu, the capital of the Sichuan Province, which is
15 a major city, an ancient on Silk Road, and Sichuan
16 Province has a huge population.

17 While in Asia earlier this month of April,
18 an Internet article caught my eye. It concerned
19 international trade, Japan and its policy regarding
20 the Mad Cow Disease. At this time, Asian vendors,
21 restaurants and meat counters, do not offer beef from
22 America.

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1 The Colonel's Kentucky Fried Chicken is well
2 known worldwide as KFC, and that we recently had in a
3 city called Hangzhou, also on the eastern seaboard.

4 A decade or more in the past, my family was
5 traveling in Japan, and we spotted a McDonald's and
6 immediately followed our noses, sniffing the aroma,
7 truly, and the aroma was grilled hamburger accompanied
8 by French or is it Freedom Fries. These food places
9 fit a Chinese segment lifestyle although not using
10 chopsticks when they're eating these. Chopsticks are
11 a lot of fun. The Chinese love to eat, I love to be
12 there, wonderful banquets, good friends, a way to
13 develop business relationships. Wouldn't it be great
14 if we could get American beef into the restaurants
15 there so when the important business people and
16 governmental people are meeting and eating, they could
17 have that option?

18 I returned to the United States just in time
19 to attend a Columbia University alumni meeting Friday
20 evening at the Willard Hotel. The speaker was the
21 head of Columbia University's department specializing
22 in Asian studies. His lecture was titled, does the

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1 Rise of China in the United States? Several issues
2 were addressed, and the answer on all counts is a
3 solid no. No. The rise of China does not threaten
4 the United States. I hardly concurred with the
5 speaker. I've been living in China, can verify
6 statements by what I've seen and read in the China
7 Daily, which is the controlled news by the Communist
8 Party.

9 It's important to realize that the current
10 leaders of China understand, they fully realize that
11 the only way that they will remain in power is to
12 provide economic development for everybody within the
13 country.

14 There are 1 billion customers in China
15 according to James McGregor's book, Lessons from the
16 Front Lines of Doing Business in China. James
17 McGregor speaks Chinese Mandarin. He served as a key
18 advisor to both the U.S. and the Chinese Governments.
19 He was a Wall Street Journal China bureau chief
20 following the Tiananmen massacre, the chief executive
21 of Dow Jones China business operations during much of
22 the roaring 1990s, a venture capital investor during

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1 China's dot.com boom. This is a good book to help you
2 to understand China.

3 My point is that China not only has 1
4 billion customers. Its population is 1.3 billion, and
5 the U.S. beef industry is not in China. They're not
6 in Japan. I have no knowledge if they are in
7 Indonesia. I would like to see the American
8 companies, individual meat packers, large meat
9 packers, whatever it happens to be, do well in China.
10 The goal of current Chinese leadership is economic
11 development. They want a good life for everybody.

12 MR. HICKS: Ms. Keller, we have about two
13 more minutes left.

14 MS. KELLER: Okay. The international trade
15 orders for beef is being filled by Australia, New
16 Zealand, South American companies. Indeed I cannot
17 purchase or prepare beef in China that comes from the
18 United States. I cannot eat it in China or Japan. I
19 wish I knew the statistics for the whole area but
20 there is a huge potential there. It's due to Mad Cow
21 problems that the U.S. packers cannot get into Japan.
22 Imagine if Japan and France and other companies become

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1 aware that U.S. packers and processors aren't taking
2 their responsibility and what will they think of this
3 United States Government Agency, if this Agency does
4 not require the packagers and processors to take
5 responsibility to remove potential harmful material
6 from the meat that is shipped.

7 I'm viewing a bigger picture. The global
8 society. I see this as a significant issue of
9 importance to the American consumer, you, your family,
10 your children, your grandchildren, your great
11 grandchildren, me, my family, and by extension
12 customers and families around the world. This really
13 is an issue of economic development or economic
14 stagnation of the U.S. beef industry.

15 I thank you for your time.

16 MR. HICKS: Thank you. Those are the last
17 of the comments of those who signed up. Yes.

18 MS. HOLLINGSWORTH: Will you all others from
19 the audience who haven't signed up?

20 DR. RAYMOND: Absolutely.

21 MR. HICKS: Yes. Jill.

22 MS. HOLLINGSWORTH: Thank you, and we

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1 appreciate this opportunity to be here today.

2 My name is Jill Hollingsworth, and I'm the
3 Vice President of Food Safety with the Food Marketing
4 Institute.

5 The Food Marketing Institute is a trade
6 association that represents approximately 2,000
7 retailers and wholesalers in the United States and
8 internationally, and our members range from the
9 largest multinational firms down to the smallest,
10 single owned independent operators.

11 We appreciate the efforts by FSIS to look at
12 the current recall system and constantly try to find
13 ways to improve it, enhance it, and in that regard, we
14 certainly support your efforts because we have that
15 same goal in mind, to protect our customers.

16 In preparing for our comments to the
17 proposal, we've been looking up some various pieces of
18 information that we thought might be even useful to
19 the Agency as they look at the proposed rule.

20 One is that there are currently about 16,000
21 distribution centers that carry meat and poultry
22 products, and we'd be happy to give you our references

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1 and resources for that information if it would be of
2 benefit, but our concern is that as previous
3 presenters have mentioned, that any list compiled by
4 FSIS with its current resources would not be able to
5 be a complete list. And, therefore, we would have the
6 negative consequences of posting on the website an
7 incomplete list, and we are concerned that consumers
8 will come to rely as they do now on FSIS' list as the
9 definitive resource for determining whether or not
10 product they purchased might be recalled. And, in
11 fact, we are concerned that we may weaken the public
12 health protection of consumers by giving them
13 misleading or a false sense of security.

14 We believe that in all recalls the focus
15 should be on the product. Currently consumers do
16 return more products than they probably need to, but
17 we've never complained about that or the economics of
18 that situation. We would rather err on the side of
19 safety and take back more product than necessary than
20 try to fix the problem by looking at the economics of
21 can we, in fact, stop consumers from bringing products
22 back that don't need to be.

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1 Posting on the website is certainly not
2 going to be timely as Mr. Derfler pointed out.
3 According to FMI data, consumers currently shop two
4 and a half times per week, visiting their same retail
5 store over and over. We would far rather a consumer
6 who is coming to the store maybe just days, hours
7 after a recall was announced, to check with their
8 retailer to determine, is the product I have purchased
9 from this store part of the recall? That is the best
10 way to get information to consumers to give them the
11 right information and to tell them what needs to be
12 returned and what needs to be taken back.

13 The retail industry supports improvements in
14 the current system, but we aren't clear as to what
15 information the Agency has that shows that publishing
16 this information on the website, in what will be in an
17 incomplete and untimely manner, is a better system and
18 an improvement over what we currently have.

19 Another concern is that the distribution
20 list is not going to be a user-friendly list in all
21 situations. Oftentimes stores, particularly in
22 smaller communities, are known by a common or

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1 community name, which is not the same as the business
2 name. The name on the distribution list will, in
3 fact, be the business and not the name that the
4 consumer will be comfortable and familiar with, there
5 once again discouraging them to bring back product or
6 to ask a question of their stores, did I have recalled
7 product that I should bring back?

8 We also agree with the comments made by
9 S.T.O.P. that web posting is really not a good
10 communication tool. There are just not enough people
11 who are going to rely on the web to get their
12 information on a recall, but we are also concerned
13 with the idea of adding this list to the recall
14 announcement if, in fact, such a list cannot be
15 compiled for days or weeks after the recall. The most
16 important thing in a recall is timeliness, getting the
17 information out as quickly as possible and we think it
18 would be inappropriate to delay that announcement
19 while a list of retail stores is be compiled.

20 In fact, we think the current FSIS system,
21 where on a recall announcement it advises consumers,
22 go to your retail store and ask the question, is

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1 excellent advice for all consumers in all recalls.

2 Retailers currently do not attempt to keep
3 their names secret. Rather, they want very much to
4 protect their individual customers. They don't want
5 to lose their business, and they want them to know
6 that the store is there only to sell them safe food.
7 We do take back more product than we need to, no
8 questions asked, and that's because we do care about
9 the customer.

10 If, in fact, in a situation that was
11 mentioned previously where a specific retail store is
12 known and their name is on the product, we give full
13 cooperation to the Agency to have that information
14 available but this is a very different situation.

15 In this case, we're looking at products that
16 are difficult to identify. We would like to have a
17 better system, if possible, to find a way of letting
18 customers know the product specifically that needs to
19 be recalled, regardless of the store it was purchased,
20 and even with this proposal, retailers will not change
21 their current policy or practice of accepting and
22 returning products, even if it is not the recalled

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1 product, even if it wasn't bought from their store.
2 They will take it back to keep their customers
3 confident and comfortable in the existing system.

4 We would also like to propose that the
5 Agency look at alternatives and perhaps even consider
6 holding a public meeting involving the industry and
7 consumers to talk about what really would help improve
8 the current system, what are its weaknesses, because
9 we really think it's a good system, but it can be
10 improved, and how might we make it better.

11 One alternative that we would like to
12 suggest is that the Agency post a website or a place
13 where consumers could go for information but rather
14 retailers post that their names, the names of other
15 stores or banners under which they operate, and
16 permanent contact information so that if ever a
17 customer has a doubt, they have a number and a place
18 to call to check if, in fact, that store or that
19 company may have sold the recalled product.

20 We would be willing to work with the Agency
21 on such a system and feel it offers consumers
22 information that they can seek on their own to find

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1 out if they need to return product, and again, we will
2 always take that product back.

3 Thank you for the opportunity to comment.

4 MR. HICKS: Thank you, Jill. Are there any
5 other comments?

6 MS. WHITE: Deborah White, Vice President
7 and associate general counsel, also the Food Marketing
8 Institute.

9 Obviously I support what Jill said, but I
10 also wanted to just turn your attention to the FSIS
11 Directive 8080.1 which is the recall directive, and
12 this is why we're having some difficulty understanding
13 how the timing of the information that's being
14 presented is going to work based on the procedures
15 that are set out in the USDA directive.

16 The directive says that for Class I recall,
17 the recall effectiveness checks will start three days
18 after the announcement is made. So if the information
19 that FSIS is going to post on the website is directly
20 a result of the recall effectiveness checks, the
21 information can't possibly be available until at least
22 three days after the process is begun.

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1 Pat Buck mentioned that the information that
2 the retail stores should be communicated in the press
3 release. That just won't be the case. It won't be
4 available. The recall effectiveness checks are the
5 source of the information, and they won't begin until
6 three days afterwards.

7 The goal stated in the FSIS directive is for
8 those recall effectiveness checks to be completed in
9 the case of Class I recall 10 days after they're
10 begun. So you've got a two-week time frame in which
11 that data will be gathered, if it's gathered in a
12 timely fashion. Again, Ms. Buck said, you know, it's
13 not user friendly to put the information up on the
14 website. It's certainly not user friendly to tell the
15 consumer, okay, check at day three, check back on day
16 four, check back on day five, check back on day six,
17 when the consumer can simply be told this is the
18 product. Check your refrigerator today, make sure
19 that it's not in there. If it's in there, get it back
20 to the store. We think that would be a much more
21 consumer friendly system.

22 The other point that I think is important to

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1 pull out of the recall directive is that the Agency
2 does not and cannot check all of the retail
3 consignees. The consignees are defined not only as
4 the retail stores, but all of the intermediaries that
5 are in the system, and they are numerous. The Agency,
6 rather than trying to check them all, says that they
7 will check a valid, a statistically valid sampling,
8 and sets forth a chart that says if there are "X"
9 number of consignees, we will check "Y" number. For
10 example, if there are between I think it's 10,000 and
11 35,000 consignees, the Agency will check 800. That's
12 a very small number, and Jill mentioned how many
13 distribution centers there are that handle meat and
14 poultry products. We found through our statistical
15 analysis using the U.S. census data, that there are
16 close to 3,000 distribution centers that handle fresh
17 meat alone. The Agency alone can't possibly check all
18 of those 3,000 distribution centers if they're only
19 checking 800 consignees. So we're having some
20 difficulty understanding how this is going to operate
21 in actual practice when you look at the proposal and
22 you compare it to the recall directive.

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1 And, I would support the other people's
2 request for an extension to the comment period for 30
3 days after the transcript is available. Thank you.

4 MR. HICKS: Thank you. Any other comments?
5 Tony?

6 MR. CORBO: Tony Corbo again from Food and
7 Water Watch.

8 I would like to make a request, and I've
9 done this to the Agency in our monthly meetings, but
10 we've heard that more product has been recovered than
11 actually recalled in a number of instances. The only
12 two that I know off the top of my head both involve
13 BSE, but I would like to make a request as part of
14 this discussion that the recovery -- the actual
15 recoveries compare to what was targeted as the product
16 to be recalled, starting from fiscal year 2002 to
17 present be part of the transcript.

18 MR. HICKS: Thank you, Tony. Any others?
19 Ms. Buck?

20 MS. BUCK: I've listened to, you know, all
21 these various comments, and I understand the
22 industry's point of view, that we have to have

1 timeliness and we have to have credibility in recalls.
2 Otherwise, they don't mean anything. I understand
3 that very, very much.

4 On the other hand, it is very important that
5 consumers have the ability to find out whether or not
6 a product that they have purchased is something that
7 they have brought into their home, because without
8 that information, they can make themselves or their
9 family members sick. How we go about providing
10 consumers in a timely fashion with that information is
11 a huge challenge, and it does mean that the industry,
12 despite all of its good efforts and its good
13 intentions, is going to have to re-look at the things
14 that it is currently doing because the system, as it
15 is put in place despite what you're talking about, is
16 not good enough.

17 And I, as a member of S.T.O.P. ask you to
18 remember that there are real people out there facing
19 potentially really serious diseases, and we need your
20 help to solve this problem. So I'm not trying to be
21 antagonistic towards you. I encourage you to re-look
22 at why it is so important to you that retailers should

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1 not carry some of the burden in this equation of
2 solving the problem.

3 MR. HICKS: Thank you. Any other comments?
4 Jill?

5 MS. HOLLINGSWORTH: I totally agree with the
6 comments that the retailers do see themselves as part
7 of the equation, and that is why we are looking for
8 ways to better get the customer to come to the
9 retailer to get the information they need. Our
10 concern is that this proposal isn't going to give them
11 the information they need, but we are certainly open
12 and willing to ideas and alternatives that will get
13 them that.

14 We have a system now that fairly rapidly
15 gets the information to the individual retail store so
16 that if a customer comes and has a question, they can
17 answer right away. And again, I point out that if
18 they're not sure, they will take the product back
19 rather than take the chance of telling the customer we
20 know that's not the recalled product. So we do see
21 ourselves as part of that solution, and we are very
22 anxious to work with the Agency to find ways to make

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1 the system better. It's not trying to keep our names
2 off a list. It's trying to be sure that any list or
3 any information that's provided to the consumer is
4 accurate and timely. Thank you.

5 One other point. On the request about the
6 numbers for how much product is returned or recalled
7 versus the total expected amount of product produced,
8 I'm not sure if the Agency has the means of collecting
9 that information or if that information currently
10 exists. There is a lot of product that is brought
11 back to retail that is taken back and exchanged or
12 refunded that is probably not included as part of the
13 recall because it's not the product.

14 For example, in a recall of ground beef, we
15 will have people bring back steaks and chuck roasts
16 and say, I just don't want to take the chance because
17 it's a beef product or whatever. We take that product
18 back. It is not reported. So there is a lot of
19 products that are taken back as a result of a recall
20 announcement that, in fact, may not get reported as
21 part of the total returns.

22 MR. HICKS: Any other comments?

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1 MR. MUNSELL: A point I didn't make earlier
2 today was -- I'll make a consideration for the USDA
3 cafeteria. What if we were all eating in the USDA
4 cafeteria today and the cafeteria had received over
5 the weekend some potentially contaminated meat.
6 Wouldn't we want to know it? Wouldn't, you know, if
7 you have children and grandchildren, wouldn't you want
8 those families to know where some potentially
9 contaminated meat is? Let's make this personal.

10 We might make other choices instead of
11 eating here, or maybe we all eat a chicken sandwich
12 but at least we deserve that right to know where
13 potentially contaminated meat is. That's what I call
14 backwards pressure, you know, if the USDA purchasing
15 agent here knew about this issue and they lost
16 customers, they would be justifiably upset, and they
17 would be angry at their supplier and go backwards, and
18 that kind of backwards pressure would result in
19 changes.

20 I've been a meat packer for 34 years full-
21 time, and before that as a kid, and I feel that our
22 industry has done an excellent job of implementing new

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1 interventions and obviously Dr. Raymond's statements
2 show that fact that we've done a better job. We've
3 improved, but there's room for additional improvement
4 but the bottom line is, from the comments made today,
5 it seems to me that the primary problem is the USDA's
6 ability to compile complete names of retailer lists.
7 I don't think we should argue about whether or not
8 consumers have the right to know. It's just how it's
9 done efficiently. Thank you.

10 MR. HICKS: Other comments?

11 MS. KELLER: Thank you again for the
12 opportunity to speak. I would encourage you to look
13 at the bigger picture. As I mentioned earlier,
14 there's a wonderful opportunity out there and this
15 issue is significant to so many people and to the meat
16 packers that are here and to the whole industry, and
17 it will improve America's economic opportunities in
18 the world. Thank you.

19 MR. HICKS: Thank you.

20 MS. KELLER: I encourage you to think
21 outside the envelope to see the additional
22 ramifications. I'm sorry I'm not concerned with the

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1 little individuals, I shouldn't say little because
2 they're not little, with the concerns that people are
3 talking about here today. I just have a crazy
4 different viewpoint, and I wanted to share that with
5 you.

6 MR. HICKS: I appreciate it. Thank you.
7 Any other comments?

8 On behalf of the Under Secretary's Office
9 and the Agency, I'd like to thank you all for coming
10 out today and appreciate your comments on a very
11 important topic.

12 As we've indicated before, the date for
13 comments is May 8th, but we've also heard requests for
14 an extension and for the transcript to appear on the
15 web. So we'll be considering that and providing
16 feedback on that to you.

17 So once again, thanks very much for your
18 comments.

19 (Whereupon, at 11:30 a.m., the meeting was
20 concluded.)

21
22

C E R T I F I C A T E

This is to certify that the attached proceedings
in the matter of:

PROPOSED RULE ON THE AVAILABILITY OF
LISTS OF RETAIL CONSIGNEES DURING
MEAT AND POULTRY PRODUCT RECALLS

Washington, D.C.

April 24, 2006

were held as herein appears, and that this is the
original transcription thereof for the files of the
United States Department of Agriculture, Food Safety
and Inspection Service.

Timothy Atkinson, Jr., Reporter

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