

Effectively Communicating with Consumers During Recalls

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*Better Communications, Better Public Health
Outcomes Exercise*

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2008 FDA Recalls

- Honduran Cantaloupes (*Salmonella*) March 18-28, 2008
- Slade Gorton & Co. "Icybay Cooked Langostinos" (*Listeria monocytogenes*) March 14, 2008
- Aunt Jemima Pancake & Waffle Mix Products (*Salmonella*) March 4, 2008
- Walker's Food Products Co. Four Bean Salad (*Clostridium botulinum*) February 28, 2008
- Nutri-Foods "Organic Sesame Seeds Natural - Unhulled" (*Salmonella*). February 15, 2008
- Choyce Products Yellowfin Tuna (*Salmonella*) February 9, 2008
- New Era Canning Company Products (*Clostridium botulinum* bacterium spores) January 18-February 7, 2008
- Shiloh Farms Organic Unhulled Sesame Seeds (*Salmonella*) January 28, 2008
- Deli Chef Tri-Bean Salad (*Clostridium botulinum*) January 21, 2008

2008 USDA Recalls

- Chicken Giblets (adulterated) Mar 14, 2008
- Gourmet Boutique Meat and Poultry Products (*Listeria*)
March 4, 2008
- Frozen Chicken Entrées (*Listeria*) Mar 4, 2008
- Frozen Chicken Entrées (*Listeria*) Mar 3, 2008
- Frozen Chicken Entrées (*Listeria*) Mar 2, 2008
- Hallmark/Westland Beef Products Feb 17, 2008
- Ground Beef Products (*E. coli* O157:H7) Jan 12, 2008
- Mark's Quality Meats Ground Beef Products (*E. coli*
O157:H7) Jan 5, 2008

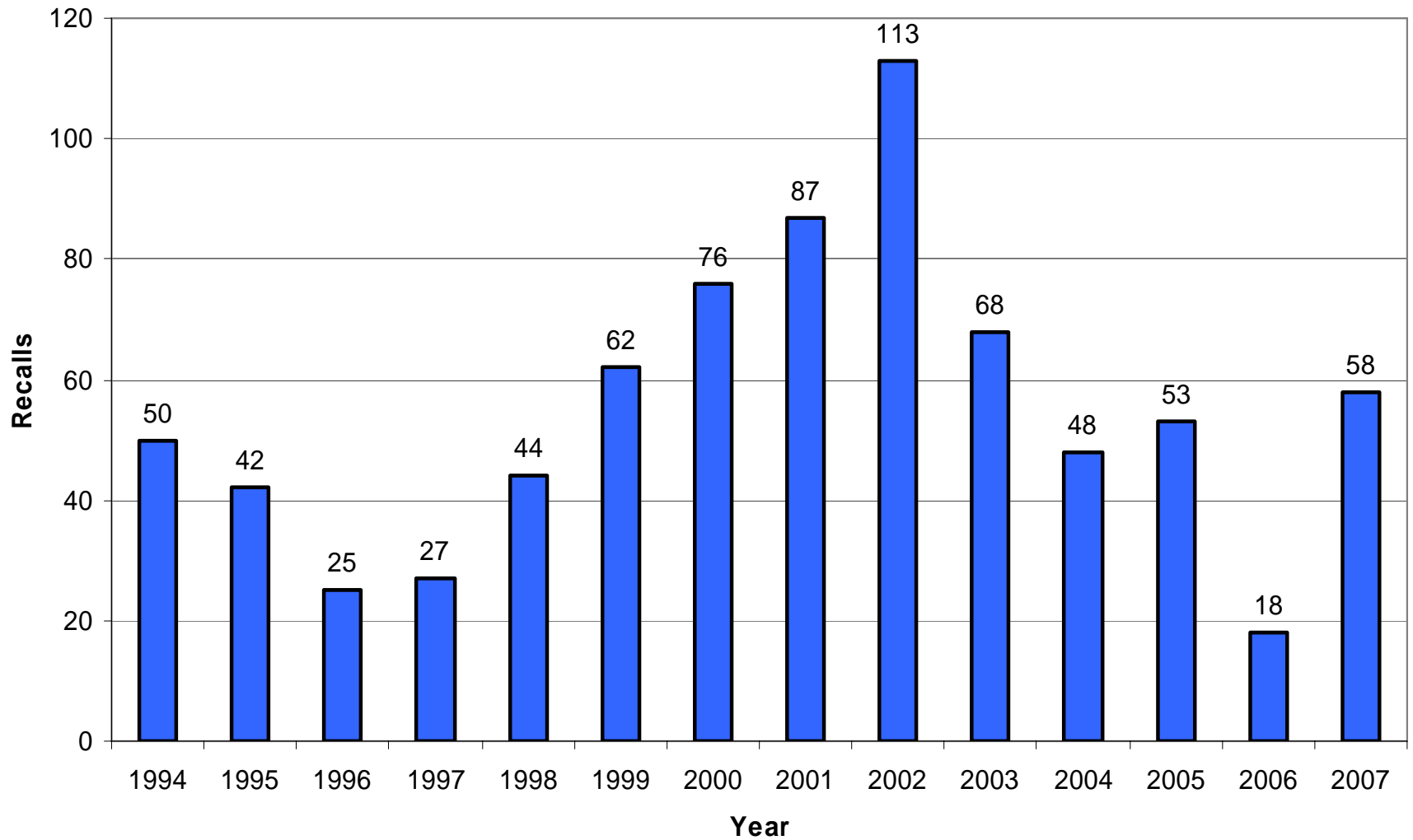
Three Classes of Recalls

- Class I – There is a reasonable probability that the use of the product will cause serious adverse health consequences or death.
- Class II – There may be temporary or medically reversible adverse health consequences and the probability of serious adverse health consequences is remote.
- Class III – The consumption of or exposure to the product will not cause adverse health consequences.

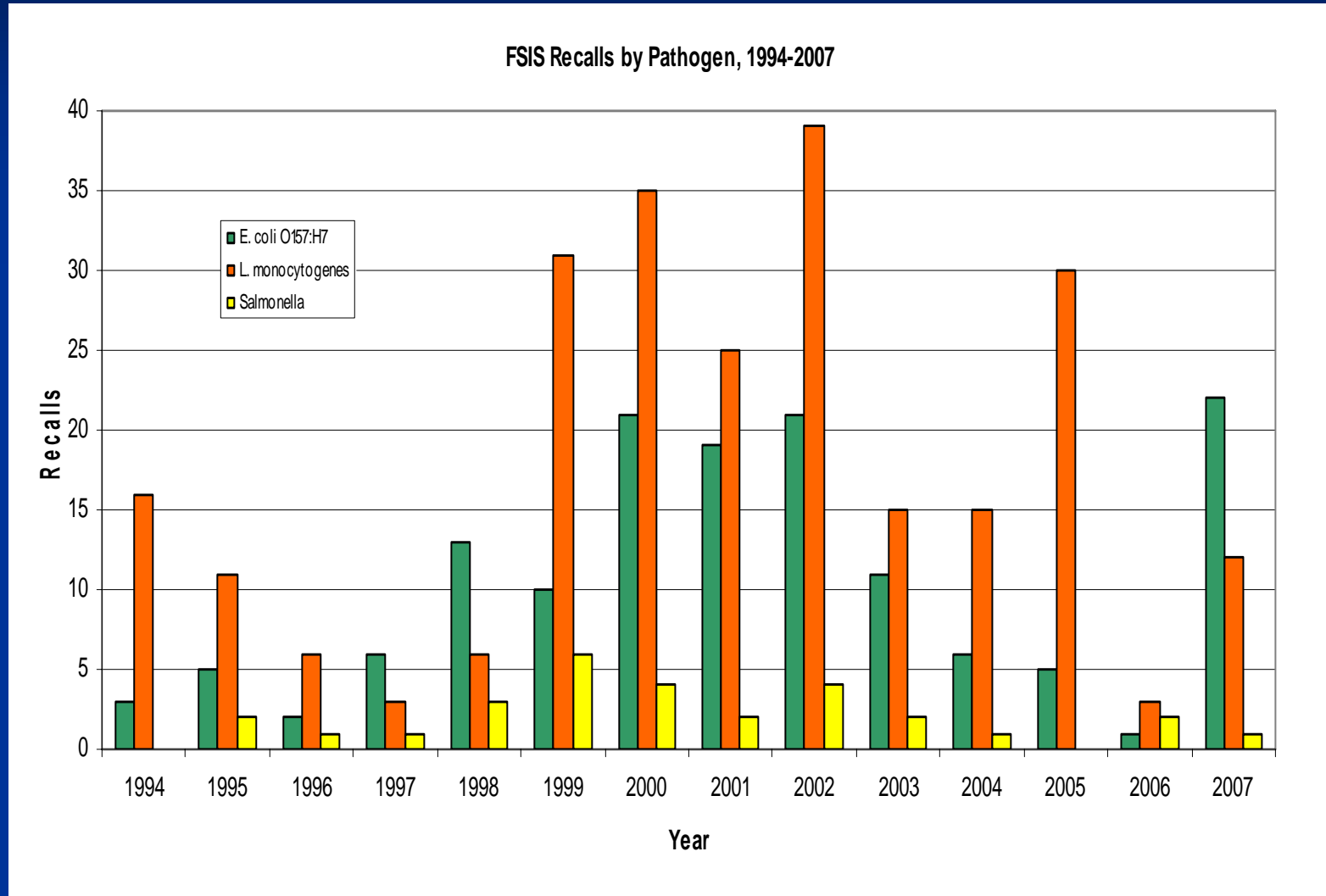
What We are Seeing

- There are more recalls occurring for both FDA and USDA regulated foods
- Recalls are triggered from some very serious hazards in the food supply: *E. coli* in spinach and ground beef, Botulism in canned foods, *Salmonella* in peanut butter
- The industry is being challenged to bring back products from multiple points in the production and retail chains

Total Number of FSIS Recalls by year, 1994-2007



FSIS Recalls by Pathogen, 1994-2007



How Do We Communicate with the Public?

- FDA issues multiple press releases containing recall notices issued over the span of one week for Honduran cantaloupes.
- The most recent, from Dole Fresh Fruit Co., announces:
"The cantaloupes were distributed for sale ... in cardboard cartons with the brand 'Dole' and 'PRODUCT OF HONDURAS' printed on each of the side panels of the carton."

But consumers don't buy cantaloupes by the carton.

- Impossible for consumers to identify whether the single cantaloupe in their refrigerator is part of the recall
- Illustrates the need for better traceback and labeling on individual produce items

USDA Example: Westland/Hallmark

- USDA Press Release: "Hallmark/Westland Meat Packing Co., . . . , is **voluntarily** recalling approximately 143,383,823 pounds of raw and frozen beef products that **FSIS has determined to be unfit for human food** because the cattle did not receive complete and proper inspection."
- Illustrates the paradox of a voluntary recall when a government agency has determined that a product is unfit for human consumption

USDA Example, cont'd

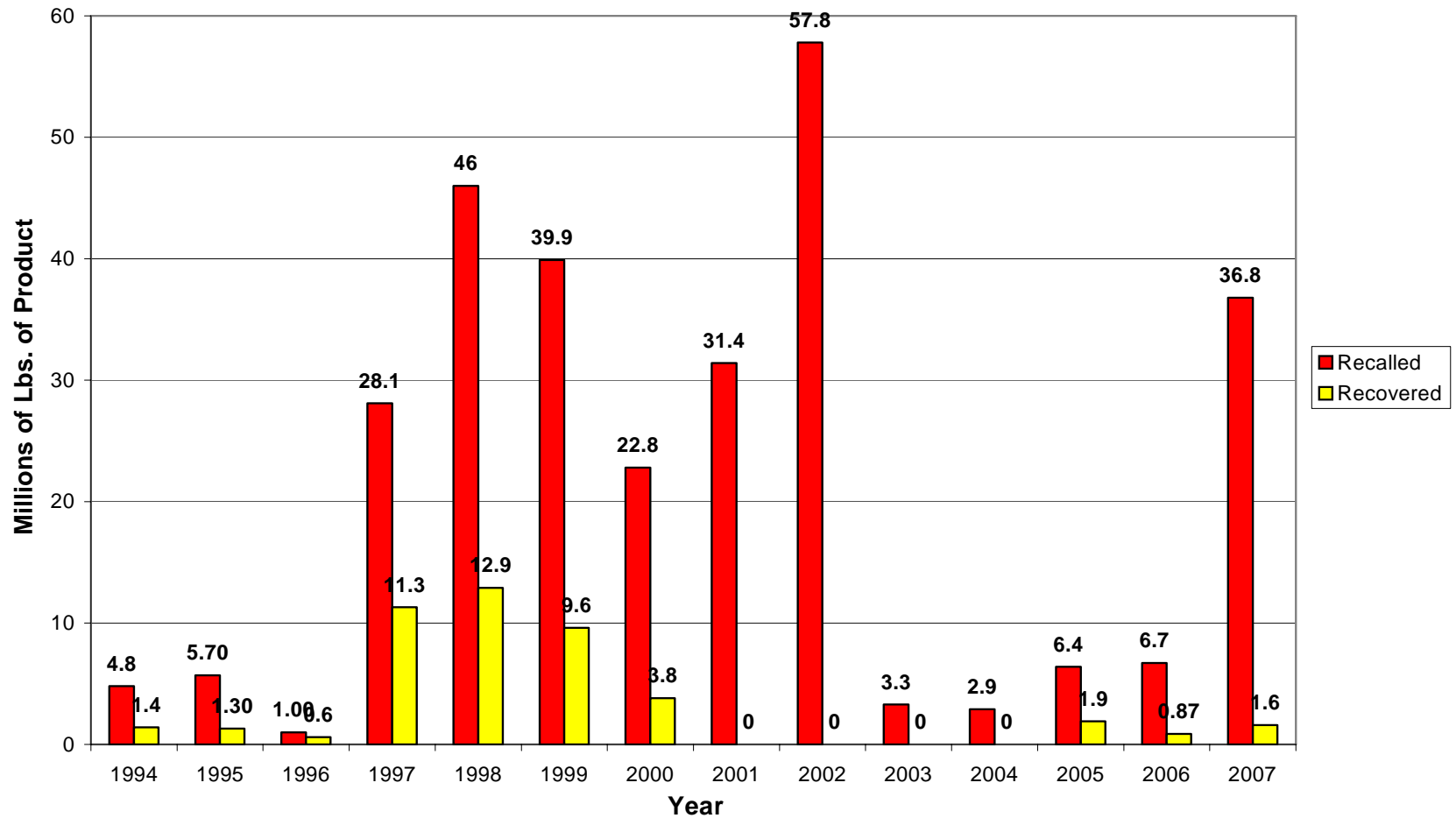
- The 2 full pages of product listings and 65 published labels do not provide consumers with information to identify products in their freezers-- the packaging information included is bulk packaging for companies.
- Establishment number is included, but that number often doesn't make it to the consumer... Urging consumers to look for "EST. 336" doesn't tell consumers whether recalled beef is in their freezers.

Communication Challenges

■ Voluntary System

- USDA and FDA Cannot Order Recalls.
- Industry Negotiates Terms of Recall.
- Delays Result in Less Product Recovery.

FSIS Recall and Recovery Data By Year, 1994-2007



Mandatory Recall

A Tale of Reversible Positions

- 1998 – FSIS Supports Mandatory Recall Authority; FDA Does Not!

“We need to have mandatory recall and notification authority. The current system of voluntary industry recall is simply not reliable enough.” Sec. of Agriculture Dan Glickman 2000.

- 2007 – FDA Supports Mandatory Recall Authority; FSIS Does Not!

“FDA is seeking mandatory recall authority.... Although FDA has the authority to seize adulterated or misbranded food, this is not the most efficient option when contaminated product has already been distributed to hundreds or thousands of locations.” Asst. Comm. for Food Safety David Atchison 2007.

Communication Challenges

■ Inadequate Disclosure

- Retailers shielded from responsibility for getting products back after they are sold
- Consumers can't determine if products they have already purchased are part of the recall: produce, ground beef

The Retail Consignee Rule

Two Agencies/Two Positions

- USDA and FDA Do Not Release Consignee Lists – Why's that Important?
 - Consignees are often retailers who are in closest contact with consumers.
 - Consumers know where they shop, but may not know who produced a recalled product.
- USDA Changing its Policy (2006 NPRM)
 - Two Years Later, Who's Holding Up the Rule?
- FDA Continues to Shield Retailers

Other Factors

- Weak Enforcement
 - No Civil Penalties to Induce Violators and Their Consignees to Conduct Adequate Recall.

Civil Penalties

“Civil fines serve as a deterrent and can be imposed more quickly than criminal penalties or the withdrawal of inspection. They can be appropriately tailored to the nature and scope of the violation, as well as to the size and type of business . . . But, USDA does not have this authority for food safety.”

USDA Rel. 0346-97

- FDA Can Only Impose Civil Fines for Food Safety Violations of Pesticide Residue Limits.
- USDA Can Only Impose Civil Fines for Food Safety Violations of Egg Products Inspection Act.

Changes to Improve Recalls

- Give Regulators Authority to Order Recalls
- Provide Adequate Notice to Consumers
- Civil Penalties for Failing to Conduct Recalls

Mandatory Recall Legislation

- S. 654/H.R. 1148, the Safe Food Act.
- S. 1274/H.R. 2108, Human and Pet Food Safety Act.
- S. 2081, Food and Product Responsibility Act.
- H.R. 3484, the SAFER Meat, Poultry and Food Act.
- H.R. 3610, the Food and Drug Import Safety Act.
- H.R. 3624, the Consumer Food Safety Act.
- H.R. 3937, Food Import Safety Act.

Questions?

