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VIA FAX (202) 205-0381

FSIS Docket Clerk, Docket No. 00-022N
U.S. Department of Agriculture
Food Safety and Inspection Service
Room 102, Cotton Annex
300 12th Street, SW
Washington, DC 20250-3700

RE: Comment to the ACTION with respect to the *E.coli* O157:H7 Contamination of Beef Products - Docket No. 00-022N

The North American Meat Processors Association (NAMP) welcomes this opportunity to comment on the ACTION proposed by the Food Safety and Inspection Service (FSIS). Though we understand that the ACTION is not a new regulation per se, merely the addition of details and directions to implement policy, we would nevertheless appreciate the agency consider the following comments in its overall review of the policy changes it is proposing.

NAMP was one of the very first and continues to be a strong supporter of the agency's HACCP and Pathogen Rule initiative. We are disappointed, however, that the agency has not kept a number of the promises it made when others and we endorsed the Rule's implementation. Those promises included a strong farm to table oversight, an exit from command and control regulation, and the adoption of a complete science-based inspection system.

The *E.coli* O157:H7 issue before might indeed be moot if FSIS had fulfilled its promise to enforce a strong and viable farm to table food safety continuum. Once *E.coli* O157:H7 was declared an adulterant in non-intact beef because of its threat to consumers, particularly the elderly, the young, and the immuno-compromised, the agency limited its enforcement powers to actions against the grinders of ground beef, who then as now are the last in line in the production/distribution chain prior to consumers. FSIS pursued this policy in light of the fact that in most instances downstream grinders absolutely did not, and still do not have the available technology to eliminate pathogens nor the market power to effectively demand pathogens be eliminated from the raw materials purchased from suppliers. Even so, NAMP years ago strongly advised its membership to request such a "guarantee" from its suppliers, an effort which was often met with little success, and to contain all grinding batches in the same lot, discarding any remainder product. Downstream grinders were later helped by agency policy that allowed them to obtain declarations from their suppliers that pathogen control interventions had been used on the raw materials they purchased. This of itself was not a guarantee that *E.coli* O157:H7 was not present, but in a small way shifted the risk of finding the pathogen back to the slaughterer. Now, however, the ACTION document renews the requirement which proved unworkable that grinders "guarantee" that they or their suppliers have in fact eliminated *E.coli* O157:H7 from ground products.

NAMP among others, including consumer groups, strongly urged the agency to attack the problem at its source, on the farm, where the cattle first harbor the *E.coli* O157:H7 pathogen. NAMP would like to encourage the agency to challenge cattle producers to incoporate HACCP, GMPs, or SSOPs that might affect this and other pathogens. We would further like to see the agency encourage slaughterers to put in place livestock purchase requirements, which would minimize the introduction of pathogens into the food supply, as they become available. Since the Smith and Elder studies found *E. coli* O157:H7 in the live animals, it is unconscionable that the farm community should not be included in the effort to eliminate the pathogen. If FSIS wishes to be a true "public health" agency, it needs to provide education and incentives whenever possible to control points in the process where pathogens may enter the food supply, not only those where they find enforcement power specifically granted.

This also applies to FSIS's approach to the table end of the food safety continuum. The *Fight Bac!* Campaign is a helpful educational tool, but such programs must rely on consumer awareness and willingness to respond in order to achieve any degree of success. Until recently, federally approved irradiation for poultry and meat has been lying dormant because of misconceptions about the technology by consumers. USDA declined to take the leadership in explaining to consumers the benefit of irradiation as a public health aid. What government approves, government should support. For reasons of their own, certain public activist groups continue to challenge the use of this scientifically approved method without facing an official Agency response.

Further, though the Department promised to do so, neither the Department nor the agency inform the public that properly cooked raw product eliminates any danger even if that product had been contaminated with *E.coli* O157:H7. Though recalls of suspect products are in the public interest, it makes little sense to frighten consumers about products produced many months previously without also apprising them of the fact that if properly cooked and consumed there was no danger. The failure to tell the whole story is not only detrimental to consumer confidence in products and establishments but also in government and its methods of oversight.

If the agency believes CCPs or other interventions should be in place at the grinder level, it should provide a means for the grinder to demand from their suppliers any and all information about the interventions that were used, testing results, and other information deemed necessary to verify the grinder's own HACCP and SSOP plans or other requirements. Further FSIS should also make available a timely list of non-conforming slaughter and boning operations so that grinders may choose proper suppliers and not be put at jeopardy in their own HACCP plans for inadvertent non-compliance. It is of little value to the grinder to have after-the-fact FSIS notification to slaughterer suppliers that an *E.coli* O157:H7 positive was discovered in their ground product and then to have FSIS implement verification activities at that supplier when the first line of defense against the introduction of *E.coli* O157:H7 into the food supply initially originates at the producer or slaughter level. One may further question FSIS's rationale that it is very difficult to find the pathogen at the slaughter level but easy to find it at the grinder level. One may conjecture that FSIS considers recalls a more visible and political example of their food safety expertise than finding the pathogen before it can possibly do some harm. That's not what we believe was the intent of food safety law, HACCP philosophy, or is an appropriate public health effort.

We would also like to make some more specific points and point out some questions that have arisen in regards to the recently published Federal Notice and supplemental guidance materials and supporting documentation:

1. According to the regulation, all beef slaughter establishments will be required to identify *E. coli* O157:H7 as a hazard reasonably likely to occur and implement intervention strategies that will reduce the pathogen to undectable levels. It appears that all slaughter plants must comply in order to be considered to be operating under an effective HACCP plan, and establishments must be operating under an effective HACCP plan in order to receive the marks of inspection. In light of that, further processors will be required to verify that the slaughter establishments who are their suppliers have interventions in place to control *E. coli* O157:H7, first by receiving written documentation and then through their own verification in the form of testing or audits. It seems redundant that further processors have to prove the meat they receive has been through an intervention when it must have been in order to receive the USDA mark of inspection.
2. After receiving documentation that meat from a slaughter plant has been through a validated intervention, a further processing establishment must, according to the directive, verify the application and effectiveness of the intervention either through product testing and/or supplier plant audits. Small and very small plants would find guidance from FSIS as to what would be considered acceptable for a verification testing program to be very valuable. While volume might be one indicator of how often verification testing should be done, another would be the likelihood that the meat entering the facility is contaminated. The only way for grinders to know that information is if suppliers are forced to share their own verification test results. Also, if suppliers are sending the meat with a certificate of analysis that the meat has tested negative for *E. coli* O157:H7, would that be a factor in the frequency of verification testing? In regards to audits, would each plant be expected to audit each supplier? The nature of the industry is that while there are thousands of further processing facilities, they receive their supplies from a handful of slaughter plants across the country. Instead of having thousands of auditors from plants across the country visit the major slaughter houses each year, wouldn't it make more sense to let them rely on FSIS and the mark of inspection to ensure that the meat has been processed according to the regulation and policies set forth by FSIS?
3. We have posed the question to FSIS as to what the corrective action would be for a positive O157:H7 sample found during verification testing from a supplier who has maintained the intervention requirements, and the answer was given that dropping the supplier is a reasonable option. We do not see this as an improvement in food safety, as company A will switch from supplier Z to Y, while at the same instance, company B may be switching from supplier Y to Z for the same reasons.
4. While we appreciate the logic behind the suggestion that raw materials for products should come from a single source, we feel this suggestion is virtually impossible to achieve in a real-world situation. In order to stay competitive, to respond to availability of raw materials and to respond to customer specifications and orders, many sources of raw materials must be utilized. This suggestion is especially hard on the small and very small producers of ground beef, and could force even more consolidation in the industry by large companies.

NAMP for several years has requested FSIS allow the use of GRAS interventions directly on raw materials during the grinding process and still stay within the proscriptions of the Standard of Identity for ground beef. This would provide further assurance to consumers that every effort had been made to maximize the safety of the product. We have made some progress in this are as of recent, but we ask that this industry hurdle be promptly eliminated.

We strongly believe the entire issue of ground beef safety must be addressed as a whole and not piecemeal as has previous and this present effort attempted to do. We have outlined a number of suggestions how this may be accomplished and pointed out some areas where the Department's oversight may be improved. It is important to consumers, the industry and the Department that public confidence in meat and poultry product safety is maintained. Failure to take all the necessary steps to assure it leaves open the door to those who feed upon the failures to promote ill-advised and/or unscientific approaches that may wreak havoc upon the integrity of the nation's public health system. None of us can afford for that to happen.

NAMP will be happy to meet with the agency to further pursue these ideas at any time convenient for you. We firmly believe in offering positive ideas and constructive help in addressing issues which affect food safety and the interests of our membership. We look forward to hearing from you.

Sincerely,

Marty Holmes

Martin W. Holmes
Executive Vice President

cc: Board of Directors