



October 9, 2003

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FSIS Docket Room
Attn: Mary Ann Riley
USDA/FSIS
Room 112, Cotton Annex
Washington, DC 20250-3700
mary.riley@fsis.usda.gov

03-015N
03-015N-6
John R. Cady

NATIONAL
FOOD
PROCESSORS
ASSOCIATION

RE: [Docket No. 03-015N] FSIS Safety and Security Guidelines for the Transportation and Distribution of Meat, Poultry, and Egg Products; Notice of Availability

Dear Ms. Riley:

The National Food Processors Association (NFPA) appreciates the opportunity to submit comments on the FSIS Safety and Security Guidelines for the Transportation and Distribution of Meat, Poultry and Egg Products. NFPA is the voice of the \$500 billion food processing industry on scientific and public policy issues involving food safety, food security, nutrition, technical and regulatory matters and consumer affairs. NFPA's three scientific centers, its scientists and professional staff represent food industry interests on government and regulatory affairs and provide research, technical services, education, communications and crisis management support for the Association's U.S. and international members. NFPA members produce processed and packaged fruit, vegetable, and grain products, meat, poultry, and seafood products, snacks, drinks and juices, or provide supplies and services to food manufacturers

You will recognize in reviewing the comments we have laid out herein similarity to, if not a direct repetition of, certain points and concerns we raised earlier on this exact topic. Despite our prior comments, submitted on March 25, 2003, it appears the Agency has made minimal changes to the original document. With that said, NFPA questions the utility of this exercise of soliciting comments, since many of our earlier concerns appeared to have been ignored, and we find it unfortunate that the Agency hurried the release of this publication into wide distribution in what appears to be an absence of deliberate consideration of comments made earlier, as well as input from those for whom the guidelines are intended.

John R. Cady
President and
Chief Executive Officer

1350 I Street, NW
Suite 300
Washington, DC 20005
202-639-5917
Fax: 202-637-8464

WASHINGTON, DC
DUBLIN, CA
SEATTLE, WA

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As stated in our comments of March 25, 2003, we still believe that developing such guidelines in partnership with key stakeholders would have led to a much more concise, practical and useful document. To that end, we urge the Agency to reconsider its approach and make significant revisions to this document.

General Comments

Overall, and as NFPA continues to stress to all audiences, food security and food safety, though interrelated, are confusing when discussed within the content of one document.

The potential is for these two disciplines to be treated in identical fashion—utilizing identical procedures, practices and preventive measures. Such actions would be inappropriate, if not fundamentally unsound. It is our recommendation that these disciplines be addressed in separate documents so as to minimize confusion. As written the document utilizes security terminology for food safety issues, uses food safety terms for food security issues, and muddles the distinction between true food safety and food sanitation and other GMP-type issues.

It is our recommendation that FSIS should remove the entire section related to food safety, i.e., Section I, and reissue the document after further consultation with, and consideration of views from impacted stakeholders. In brief, this document should focus solely on food security aspects of transportation and distribution of meat, poultry and egg products.

The Guidance does not differentiate between expectations pertinent and applicable to perishable products versus canned products or other shelf-stable products. In the first paragraph on page 3, the document groups all meat, poultry and egg products together as being "...particularly vulnerable to microbiological hazards because ... (they) provide ideal environments for the growth of bacteria." The next paragraph includes the unqualified statement that "Meat, poultry, and egg products must be refrigerated or frozen after processing and before shipment to inhibit spoilage and growth of pathogens." Obviously these statements are not applicable to canned or other shelf stable food products. Such confusing statements warrant more than a passing qualification in the cover letter to these Guidelines. We suggest the second sentence in paragraph 2 be amended to read as follows:

"Fresh or frozen meat, poultry, and egg products must be maintained under refrigerated or frozen conditions, as appropriate, after processing to inhibit spoilage and growth of pathogenic bacteria. Canned and other shelf-stable products may be shipped unrefrigerated."

Section I. Food Safety During Transportation and Distribution of Meat, Poultry and Egg Products

It is not clear to us what type of sampling and testing are being suggested in the first bullet point on page 6. It would appear that these "microbiological or other" tests may be more related to

quality than safety. Both the feasibility and value of such testing must be considered. We recommend deletion of this point.

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The Section "Use Dedicated Transport Vehicles" is unduly restrictive in that it suggests that each vehicle be restricted to a single commodity. For example, the second sentence states, "If feasible, they should be restricted to a single commodity." Does the Agency really mean to suggest that canned soup cannot be hauled with summer sausage in the same load or that a tanker cannot first haul orange juice concentrate, be adequately cleaned and then haul pasteurized liquid whole egg? This is neither feasible nor necessary.

While we recognize the need to prevent contamination from one load to the next, the document fails to deal with the real safety issue of potential contamination – the hauling of raw product with or in the same vehicle that will next be used to haul unpackaged, pasteurized, finished product.

We suggest the Agency consider adopting industry guidelines for individual types of transport (reefers, refrigerated reefers, tankers) that deal more precisely with each mode of transport. For example, the Food Industry Transportation Coalition has developed a guidance document "Bulk Over-the-Road Food Tanker Transport Safety and Security Guidelines" (copy attached) that provides information on a variety of situations, including cleaning and sanitation, prior hauls (suggesting receipt of information on the last three prior loads), and conversion from non-food to food use. Use of vehicles for multiple products does not necessarily compromise safety; this is an aspect that companies need to address in conducting a hazard analysis and determining what controls may be needed for product safety specific to their situation.

On page 10, Examine vehicles before loading, the Agency refers to checking for residues of previous cargoes and cleaning/sanitizing compounds. In addition, we suggest a bullet just prior to these statements to read, "Obtain list of prior haul(s) for tankers (suggesting previous three prior hauls) and wash station ticket(s) for review. However, it should be noted that packaged products would not be exposed to any such residues. There is also a recommendation, "For pre-cooling the doors should be closed and the temperature setting of the unit be no lower than 26°F. This is inappropriate for frozen products, for which most refrigeration units would be set at 0°F. Shelf stable foods, including canned products, would not need refrigeration.

On page 11, a bullet notes dock foremen should document that all freight is 40°F or lower before loading. It is not realistic to check all freight but rather a random sub-sample thereof. Again, this would only apply to perishable products. We suggest the sentence be amended as follows: "For temperature sensitive (refrigerated, frozen) products, the company representative should document that freight is 40°F or lower based on product specifications." Clearly the Agency does not intend for frozen products to be permitted to reach 40°F prior to loading nor for canned shelf-stable meat to be required to be cooled to that temperature. The Note at the bottom of the

page indicates this was intended to cover the minimum requirement for processed poultry, this should include the CFR citation to clarify it does not include canned poultry products.

On page 12, we suggest the second paragraph be amended to read as follows: “Maintain the “cold chain” to ensure fresh or frozen meat, poultry, and egg products are kept at appropriate temperatures continuously throughout all phases of transport.”

On page 13, the Agency suggests that companies should load trailers in the evening or early morning during warmer weather. This is neither realistic nor feasible, as it would restrict product flow and create a bottleneck at the loading dock and is totally unnecessary for many products, including canned or other shelf stable products. Additionally, significant transport time would be lost under such an operational requirement. Companies do need to consider the impact of warmer weather on product safety; however, there are many measures they can take to ensure product safety is not compromised that do not have such an adverse impact on business operations.

On page 14, the Guide has many references to temperature controls, including having the trucker check units every 4 hours. This may not be necessary for those refrigeration units that have alarms built in to monitor the settings. We also recommend that the specific time frame be deleted and replaced with a recommendation for “periodic checks, (e.g., every four hours). Physical inspection of the units should certainly be done for units left parked and unattended in a lot pending unloading.

On page 14, we suggest the addition to the second bullet of a third sentence which would read in part as follows: “If the malfunction cannot be corrected within this time frame, the product should be offloaded to another refrigerated vehicle or to a refrigerated warehouse until the correction can be made or another refrigerated vehicle accessed.

Page 15 refers to “...test to determine if bacterial growth has occurred after the product was packaged and shipped.” This would require sampling of product before packaging and just after arrival. It is very unlikely the results would be available in a meaningful timeframe. Also it is impractical and results in the destruction of significant amount of product. It should be remembered that such testing does not instill safety; only appropriate processes and procedures can do this. We suggest this recommendation be removed, since this is a food safety matter, not food security. Page 15 also addresses “the rejection of packages and products ...which can’t be verified against the delivery roster”. This recommendation should be moved to the food security section of the Guide. Again, it is imperative to keep food safety information and food security information separate to avoid confusion of those sectors for which this Guidance is intended to be used as a tool to enhance food security practices.

Section II. Food Security During Transportation and Distribution of Meat, Poultry and Egg Products.

On page 18, the Guide suggests the need to assess vulnerabilities. The second bullet recommends use of Operational Risk Management (ORM) and Systematic Assessment of Facility Risk (SAFR). While we also support the use of tools such as ORM, FSIS must recognize that this is rather daunting for small companies, for whom these Guidelines are intended, and they may need an alternate threat assessment and management tool, along with training and assistance.

Moreover, the items listed under the third bullet with respect to identifying hazards, control points, monitoring, corrective action etc. are terms related to HACCP that should be avoided, wherever possible, when referring to food security. Conducting a threat exposure assessment and management (TEAM) process is a means to address security exposures, along with content review, assessment and instituting the necessary preventive measures when appropriate. We must always ensure reason prevails for food security. Because the expertise required for food security measures is different from that required to address food safety, it is best to avoid using the same terms for both.

On pages 6, 15, 24, 28 and 29, the Guide suggests sampling programs related to food security. The Federal Government has the "real" threat list and this should be considered if the industry is going to manage such threats before they occur. The challenge is to provide such a list to industry for preventive purposes while not making it accessible to the terrorists. Nevertheless, even with a list of appropriate agents, we question the feasibility and the value of such testing on a routine basis.

Page 18 refers to identifying potential biological, chemical and physical hazards. Should this not be based, at least in part, upon a federally derived list of "terrorist agents"? The industry needs assistance to ensure such agents are identified utilizing information from the government that may not be available to them. This suggestion requires significantly more detail to merit inclusion, for example specifying certain operations, such as those that use large quantities of ammonia, to which this provision would be most applicable and useful.

Page 23 refers to changing locks when employees are discharged. This may be unrealistic and unnecessary for most food establishments considering normal annual turnover of 20% or more. While this is one suggestion, other more practical approaches should also be available to companies. In the event that a key employee leaves, there should be certain procedures in place to help eliminate the potential for a disgruntled former employee to take inappropriate action, for example, changing codes, etc. and making sure that keys cannot be duplicated and are returned upon termination of the employee. The Guidance should provide more flexibility by including more than one approach to accomplish an objective.

As noted in our comments dated March 25, 2003, it is inappropriate to address water supplies and water storage in a transportation guide as seen on pages 24 and 29. These security issues are already appropriately addressed in FSIS Security Guidelines for Food Processors. Similarly on page 26 in the Facility section, incoming mail, hazardous chemical storage, backflow devices on water supply equipment, etc. in the “food preparation area” are more appropriate for processor guidelines than for transportation guidelines. Much of the information in this section does not seem specific to the transportation and distribution sector. For example, under Access, the ninth bullet on water tanks, water supplies and water pipes does not appear to be particularly relevant to transportation and distribution.

Under Facility, there is reference to “food preparation and storage areas” and to “food handling, storage or preparation areas;” food storage may be appropriate due to its possible close linkage to shipping or receiving, however references to food handling and preparation are relevant to food processors, not to transporters and thus, should be deleted.

On page 30, the guide recommends contacting local authorities in response to an “event.” We recommend that the statement be made stronger by stating “Local authorities are essential to the security of all critical infrastructures, and the necessary resources need to be made available to allow them to respond accordingly.”

It should be emphasized in the Guidance that both trace forward and trace backward apply to the immediate previous sources and immediate subsequent recipients (one step forward, one step back).

On page 31, the Agency suggests the use of screening devices such as X-ray. Our members believe this is extreme and not realistic based upon cost, effectiveness and the likelihood of creating a bottleneck for traffic/product flow. We draw the Agency’s attention to the delay at the Mexican border where such screening of vehicles creates long delays. It is important to note that procedures exist to further enhance security other than x-ray. It is necessary to exercise caution to assure that such suggestions do not inadvertently become viewed as “best practices,” when other suitable alternatives are available.

On page 37, the web site provided for U.S. Customs has a typo and is inoperable. This entry should reflect the new name of U. S. Customs – Bureau of Customs and Border Protection and the correct URL, which is www.customs.ustras.gov.

As we recommended for the FSIS Security Guidelines for Food Processors, in order to maximize flexibility of these guidelines it would be useful to have a food security goal for each section. The facility would then apply those guidelines applicable to the establishment’s business in meeting the intended goal. Moreover, there are numerous places where industry would benefit by an explanation for why a recommendation is being made. Such an explanation would assist

establishments in identifying whether a recommendation is appropriate for them or whether another approach might achieve the same result. Our philosophy for ensuring companies increase their security is to explain what they need to do and why, and leave the “how” to the individual company, since procedures and practices to achieve the desired outcome will differ depending on the facility. Providing companies with the necessary flexibility is key to achieving enhanced security throughout the food chain.

Responses to Specific Questions Posed by the Agency

1. Are there problems regarding food safety and food security in the transportation, distribution, or storage processes that the Guidelines fail to address; or if all issues are addressed, are there flaws in the approaches described in the Guidelines?

As we have commented before, food safety and food security should be separated. Both define a wide area of concern and are difficult to cover in a single bulleted document. We refer you to the *Food Security Manual for Processors, Distributors and Retailers* produced by NFPA and FMI in 2002. This manual is over 70 pages long and deals only with food security.

2. If the Guidelines can be improved, how could they be improved?

Please refer to our comments included within as well as our prior comments dated March 25, 2003. We believe a more practical guide is needed, especially for small and very small establishments.

3. Will transporters, distributors, and storage facilities have difficulty complying with these Guidelines? If so, what difficulties do the Guidelines pose? Would the guidelines pose greater, or different, difficulties for small firms than for large firms?

The response to these Guidelines would be variable depending upon each company's resources. Obviously, the majority of such actions are driven by capital and manpower that varies widely among businesses. This would be especially true for small and very small establishments. Some attempt at prioritizing the security risks and most important areas to address first would be useful for smaller firms. It is critical that the Agency communicate with the affected industries directly as well as other key agencies (both federal and state) and stakeholders that could provide assistance, expertise, and information in developing an effective and workable set of Guidelines.

4. Should the Agency initiate rulemaking to adopt the Guidelines as regulations or will the Guidelines be sufficiently effective if they are only voluntary?

No. There is no need to initiate rulemaking to make these Guidelines mandatory regulations. (See answer to question 5).

5. Would mandatory implementation of these transportation Guidelines have any unusual or particularly significant impacts on any portion of the food distribution chain? If so, who would be affected and how?

We strongly disagree with any action to mandate the implementation of these Guidelines. This document, once revised, should remain as guidance to allow each establishment the flexibility to implement those controls that are most effective for their specific operations. Industry needs time to implement and evaluate security interventions to determine what works best for specific situations. At the June meeting of the National Advisory Committee on Meat and Poultry Inspection it was unequivocally stated that the Agency should not mandate security requirements.

6. Would mandating these Guidelines by regulation increase costs to transportation, distribution, and storage facilities? If so, would this result in increased costs to the consumer as the end user?

We know there have been and will be significantly increased cost throughout the distribution chain to address food safety and food security. Each business must make independent decisions as to how they will deal with such costs, but it would be naïve to believe consumers would not see some increase in the cost of products in the market place.

Summary

In conclusion, NFPA urges FSIS to recognize that it is critical to consider the recommendations, suggestions and comments made herein to ensure that the Guidance provided these sectors of the food chain are effective and workable. Guidance given in the absence of practicality and understanding of the operations in these sectors is meaningless and only serves to increase confusion. To that end, a key recommendation for these Guidelines has been made repeatedly, and that is to not merge food security with food safety. Further, we have provided additional comments to make these Guidelines of greater value, benefit and utility to the sectors for which this has been written.

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NFPA thanks you for consideration of these comments, and would welcome the opportunity to discuss our views with FSIS at your convenience. Further, we offer our assistance in preparing food safety/GMP guidance for transportation and distribution of perishable foods, if FSIS would find such assistance helpful.

Sincerely,

A handwritten signature in black ink that reads "John R. Cady". The signature is written in a cursive style with a large, prominent initial "J".

John R. Cady
President and CEO
National Food Processors Association