

State of California—Health and Human Services Agency  
Department of Health Services



SANDRA SHEWRY  
Director



ARNOLD SCHWARZENEGGER  
Governor

**MAY 5 - 2006**

04-006P-17  
04-006P  
Mark B. Horton

Docket Clerk  
U.S. Department of Agriculture  
Food Safety and Inspection Service  
300 12<sup>th</sup> Street  
S.W., Room 102 Cotton Annex  
Washington, D.C. 20250

Dear Sir or Madam:

The California Department of Health Services (CDHS) submits the following comments in regard to the proposed rule on the availability of lists of retail consignees during meat or poultry product recalls, 9 Code of Federal Regulations Part 390, Docket No. 04-006P.

CDHS strongly supports the concept of unrestricted sharing of distribution information of recalled meat and poultry products with state and local public health agencies and with consumers. This information is critical for state and local public health agencies to ensure that consumers are protected from contaminated meat and poultry products. CDHS has previously submitted letters to the Food Safety and Inspection Service (FSIS) to this effect.

CDHS noted that the proposed rule specified no time frame as to when the distribution lists are to be disseminated to the public. In recall situations, time is of the essence; any delay in providing information to the public can potentially cause additional illnesses, injuries, or deaths. If retail distribution lists were provided to the public several weeks to several months after the initial recall notification, the public would have likely consumed much of the contaminated product before ever realizing they have adulterated food. Furthermore, the consumer may not remember where they purchased the product several weeks earlier, leading to additional accidental exposures to contaminated products. If there was a bioterrorism event in which a meat or poultry product was contaminated with a toxicological agent, any delay in providing distribution information could also delay appropriate response efforts.

It is CDHS' view that this proposed rule should be amended to require a specific time frame in which the public is to be notified of the distribution of recalled meat and poultry products. This recommendation was made in the U.S. Government Accountability Office's report, "Food Safety: USDA and FDA Need to Better Ensure Prompt and Complete Recalls of Potentially Unsafe Food," on October 2004.

Under the proposed rule, there are no requirements for FSIS to identify the names of intermediate distributors, such as food service or institutional distributors. CDHS disagrees with FSIS that providing this information to the public is not warranted. Food service distributors and institutional distributors should be included because some of these firms may deal directly with the final consumer. There are multiple levels of wholesalers, brokers, distributors, processors, and retailers before a food reaches consumers. Limiting the notification to only retail consignees may leave out distributors or wholesalers who occasionally sell directly to consumers as well. At a minimum, lists of intermediate distributors should be promptly provided to state and local public health agencies without the existing FSIS constraints requiring this information to be withheld from local agencies, consumers, and the media.

CDHS believes that additional information should be provided for each consignee, including amounts of recalled product, dates shipped, or dates received. Local and state agencies may need to prioritize notification efforts and recall effectiveness checks to those locations that received the largest amount of product and/or those most likely to still have product on hand.

Additionally, CDHS believes that the results of recall effectiveness checks should be posted. CDHS has previously requested the results of recall effectiveness checks from FSIS involving product distributed to California; however, no results were ever provided. Consumers and state and local agencies should have access to a timely summary of the assessment of the effectiveness of a recall.

Thank you for the opportunity to comment on such an important proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark B. Horton', with a stylized flourish extending to the right.

Mark B. Horton, MD, MSPH  
State Public Health Officer