



S.T.O.P. – Safe Tables Our Priority

Working Together To Make Safe Food A Reality

June 8, 2006

Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
300 12th Street, SW
Room 102 Cotton Annex
Washington, DC 20250

Re: Docket Number FSIS-2005-0028

Availability of Lists of Retail Consignees During Meat and Poultry Product Recalls

S.T.O.P.—Safe Tables Our Priority appreciates this opportunity to comment on the above notice. S.T.O.P. is a national, not-for-profit, volunteer health organization dedicated to preventing suffering, illness and death due to foodborne illness by advocating sound public policy, increasing awareness and education, and providing victim assistance. S.T.O.P. was founded in 1993 in the aftermath of the Jack-In-The-Box *E. coli* O157:H7 epidemic from ground beef in California and the Pacific Northwest.

Background

While the newest foodborne disease surveillance data is encouraging, foodborne illness continues to be a serious public health issue, and with deadly new strains of pathogens emerging, it is imperative that FSIS take a more proactive role in protecting public health. According to Centers for Disease Control and Prevention (CDC) estimates, each year 76 million people in the United States suffer a foodborne illness; 350,000 are hospitalized and 5,000 die. While everyone is at risk, the most vulnerable populations to develop serious complications due to foodborne illness are children, seniors, pregnant and postpartum women and individuals with a compromised immune system. Furthermore, the cost of foodborne illness is very high. According to USDA's Economic Research Service (ERS)¹, "Foodborne illnesses account for about 1 of every 100 U.S. hospitalizations and 1 of every 500 U.S. deaths." In fact, the ERS estimates that, each year in the United States, five foodborne illnesses – *Campylobacter*, *Salmonella*, *E. coli* O157:H7, *Listeria monocytogenes* and *Toxoplasma gondii* - cause \$6.9 billion in medical costs, lost productivity and premature deaths². These estimates do not include many other foodborne illnesses, such as, Norwalk virus - the leading cause of foodborne disease in the United States - botulism, shigella, foodborne staph, and parasites. Nor does it reflect any of the hidden costs that victims and their families suffer: the cost of traveling to receive medical care, time lost from work caring for sick children, lost leisure time, and pain and suffering.

Further, the acute stage of foodborne disease can be only the start of the problem. The Food and Drug Administration (FDA) estimates 2 to 3 percent of foodborne illness victims develop

¹ Buzby, Frezen, and Rasco. Food and Rural Economics Division, Economic Research Service, USDA. Agricultural Economic Report No. 799: *Product Liability and Microbial Foodborne Illness*.

² Buzby. Food and Rural Economics Division, Economic Research Service, USDA. *Children and Microbial Foodborne Illness*. Food Review, Vol 24, Issue 2.

secondary long-term medical problems³ – that is an estimated 1.5 million lingering health problems per year. *Salmonella* is one of the leading predictors for reactive arthritis, a painful, chronic and potentially debilitating condition that causes joint inflammation. *Campylobacter* is believed to be a leading cause of Guillian-Barre Syndrome, an autoimmune reaction that causes paralysis and kills between five and ten percent of its victims. *E. coli* O157:H7 and other foodborne diseases are almost the exclusive cause of HUS, the relentless condition characterized by cascading organ failure. HUS can cause its victims, most of them young children, to have seizures, strokes and heart attacks and many HUS patients require splenectomies, chemotherapy, repeated blood transfusions, and even intestinal reconstruction. One-third of HUS survivors will suffer life-long medical problems such as high blood pressure, diabetes, kidney failure and brain damage. In fact, HUS caused by *E. coli* O157:H7 is the leading cause of acute kidney failure in children in the United States.

Proposed Change to Recall Notification Procedures

S.T.O.P. strongly supports FSIS’s proposal to publicly identify retail establishments that have received meat and poultry products that have voluntarily been recalled by a federally inspected meat or poultry establishment. For the past 13 years, S.T.O.P. has maintained that supplying the public with more specific information regarding the distribution of recalled meat and poultry products would help consumers identify and avoid consuming potentially harmful products. We commend the agency for protecting public health by taking action to provide this information.

Consumers want and need more information in order to make informed decisions about the food that they consume or serve to their families. The current recall system baffles consumers with long lists of “case/lot numbers,” *to which they do not have easy access*, and creates difficulty in identifying which meat and poultry products may be of concern. While current recall announcements usually identify the states that may have received recalled product, consumers may assume that, since local retailers were not identified, the recalled product was not distributed in their local area but elsewhere in the state. Publicly providing the names of retailers implicated in a recall would let consumers readily know if they had shopped at an establishment that had received contaminated product and whether or not they needed to be concerned and check the products in their freezer or refrigerator.

Further, if an individual suffering foodborne illness symptoms knew they had shopped at a retail establishment of concern, they might more readily seek prompt medical attention. Likewise, public health and medical officials might more readily identify a foodborne illness case and its associated pathogen if they knew a patient had shopped at an establishment that had received recalled product.

While supportive of the proposal, S.T.O.P. urges the agency to strengthen the proposed rule by including the following policies:

- 1. FSIS should expand the definition of “retail consignees” to include “user” level establishments such as hotels, restaurants and other food service institutional providers.**

S.T.O.P. recognizes that the recall procedure must follow specific guidelines to maintain orderliness and to minimize the economic impact for establishments that are not involved in the recall. On the other hand, S.T.O.P. is very concerned that consumers are currently not receiving the information that they need to avoid consuming recalled and potentially harmful products.

³ Frezen. Economic Research Service, USDA. *The Economics of Food, Farming, National Resources and Rural America*, www.ers.usda.gov

Currently, FSIS is proposing to limit the list of consignees to the retail level as defined in Directive 8080.1, which does not include hotels, restaurants and institutional food service providers. This leaves out a vast number of establishments that consumers frequent and can easily identify. Furthermore, there have been numerous foodborne illness outbreaks associated with these type of establishments, which demonstrates the necessity of including this group of establishments to be identified in the event of a recall.

Exempting “user” level food service providers from the definition of “retail consignees” ignores the fact that a huge portion of Americans eat in restaurants, hotels and other institutional food service settings on a regular basis. Furthermore, expecting consumers to purposefully ask individual retail food service providers if any of their products were part of a meat or poultry recall is unrealistic and assumes that all retail food service employees will have timely access to this information. S.T.O.P. urges FSIS to extend the scope of its proposed recall directive to include the “user” level because S.T.O.P. believes that the Agency should issue its recall information to the level where people buy the food that they consume.

2. In addition to posting the list of retail and user consignees on USDA’s website, FSIS should also list them in all press releases pertaining to the recall.

Most consumers will learn of a recall through local media reports. Journalists frequently work on tight deadlines, necessitating them to work with information that is readily available. It is, thereby, imperative that FSIS provide the names of the retail and user consignees in their press releases so that journalists can include them in their reports to the public. Since local media outlets would readily report information regarding local retail establishments that are implicated in a recall, it is far more likely that consumers will learn of the recall if FSIS makes the effort to include the list of retail consignees in all of its press statements.

Putting the onus on consumers or journalists to go to FSIS’ website in order to find the list of retail outlets associated with a recall is burdensome and contrary to the goal of providing important public health information in the most expeditious manner. The majority of consumers either do not own a computer or they are not familiar with finding specific information on the internet. Very few consumers would be able to readily find the recall information; some consumers would not even know to look on USDA’s website to see if their local store or food service provider received contaminated product. By identifying retail and user consignees of meat and poultry products involved in a recall only via FSIS’ website and not within the press release itself, the Agency is unintentionally depriving millions of consumers from receiving information that could deeply impact on their health and their lives. S.T.O.P. strongly urges FSIS to use multiple press releases in its effort to keep the public informed of the details of a recall.

On May 22, 2006, FSIS held a public meeting in Washington, DC to obtain feedback on this proposed change in recall notification procedures. In addition to the points above, several questions/concerns were raised during the meeting that S.T.O.P. would like to address.

1. Should the Agency be concerned that the lists of retail consignees will not be timely and/or complete?

FSIS should seek to provide a complete list of retail consignees involved in a recall in as timely a manner as possible. Any delay in notifying the public of this important

information will increase the risk of foodborne illness. Since distribution lists are currently considered proprietary information, the Agency must develop its own list by conducting an intensive product tracing procedure, which could be avoided if food producers were willing to disclose their distribution lists. Currently, distribution lists, which companies are required by law to maintain, cannot be used to protect public health.

FSIS should make an effort to inform consumers that the recall lists will be incomplete for some time as the Agency conducts their product trace-forward. The Agency might want to consider supplying a projected completion date for retail lists associated with a particular recall. Further, the Agency should provide an explanation for the delay, so that consumers will better understand why these lists are not complete in a timely manner and why it is important for consumers to check product codes, even if their local retailers are not listed as having received recalled product.

S.T.O.P. commends the Agency for taking this step in protecting public health. Ideally, complete lists of retail providers would be made available to the public in a timely and efficient manner; however, some information is better than no information. The Agency should consider providing an incentive for establishments to voluntarily provide FSIS with its distribution lists, so that the Agency would not have to expend its valuable and limited resources developing its own distribution record for a particular recalled product. One such incentive could be for FSIS to state in public notices that the establishment offered timely and complete distribution information to the Agency in an effort to protect public health. FSIS should also keep an accurate accounting of the resources the Agency has expended on developing the distribution list for each recall, along with the amount of product that was retrieved. By doing this, stakeholders will be able to assess the effectiveness of current recall procedures and have an estimate of the cost of implementing a recall, both to taxpayers and the food producers/providers.

S.T.O.P. hopes that, as this recall directive is implemented and consumers become more aware of recall procedures, the Agency and industry will work together to provide this important public health information in a more timely and efficient manner.

2. Should the Agency continue to post pictures of recall product?

When possible, FSIS should continue to provide pictures of recalled product and post these pictures along with their public notices so that consumers can better understand which product is being recalled. In addition, FSIS should encourage retail and user level establishments to post a visual display of the recalled product in a prominent area. Visual displays of recalled products will provide yet another mechanism that will help consumers identify and avoid consuming potentially harmful products.

3. How can the Agency improve product tracing?

S.T.O.P. has long advocated for the implementation of an effective product tracing system that will enable a timely product trace-forward as well as a timely product trace-backward. Americans want clean, wholesome food that is traceable to its source and accountable for its safety. All governmental food inspection programs are financed by the public's taxes for their protection. Taxpayers expect swift and sure action on the part of governmental agencies to remove defective products from commerce whenever it is identified. When the prevention system fails and food that

carries deadly pathogens enters commerce, it is critical to quickly trace that defective product. Information and accountability are essential to a successful system of food safety.

Many food products, particularly meat and poultry as well as fresh seafood and produce, are not labeled to identify the producers or processors of the product. “Anonymous” food interferes with effective trace forward in recalls and trace back in cases of foodborne illnesses and outbreaks. *All food products should be labeled with a brand name, farm of origin, and subsequent processing information.* This type of labeling would facilitate more accurate and effective recalls and would improve product recovery. In addition, food producers would benefit in the long run. When recalled food cannot be easily identified, a whole class of foods can be implicated. Clear product identification would limit the negative consequences of a recall to those establishments that are identified as responsible for allowing contaminated food to enter the marketplace.

Product tracing for food products is eminently reasonable and doable. Indeed, it is being done already in other jurisdictions. For example, the UK has adopted a nationwide bovine tracking system. Closer to home, a Colorado-based meat company has implemented a bar code system that tracks food products from the individual animal to the final product. FDA requires origin labels on molluscan shellfish to identify the harvester, date of harvest, and location of harvest.

Stronger accountability increases the likelihood that establishments will take precautions to avoid recalls. The irresponsible advantage that food producers have enjoyed to skirt this accountability must be eliminated. There is nothing “proprietary” about safely slaughtering animals, harvesting crops or packaging and distributing raw and/or fresh food products. Accountability is a goal that Americans demand on many levels and in many areas. Food producers should not be excluded from this aspect of market scrutiny.

Conclusion

S.T.O.P. believes that FSIS is initiating this change in recall notification to increase consumer awareness about recalled products with the goal to prevent suffering, illness and death due to foodborne illness. Market forces are an important incentive in building a better food safety network. Unfortunately, under the current system, those forces cannot work because consumers are not adequately informed about the distribution of recalled products. This new recall directive would provide that information and enable consumers to make informed food purchasing decisions for themselves and their loved ones. By posting the food retail establishments associated with a recall, the retail establishments involved will feel economic pressure to change their production or purchasing practices. As a result, this directive will provide a strong incentive to food producers and providers to maintain and improve the quality and safety of their products. Ultimately, this directive will negatively impact only those food producers and providers that fail to produce a safe, wholesome product.

FSIS’ mandate as a public health agency includes the responsibility for ensuring the safety of the United States commercial supply of meat, poultry and egg products. S.T.O.P. believes FSIS’ proposed changes to its recall notification process will further this mission by providing consumers with vital information that they can use to protect themselves and their loved ones by helping them avoid potentially contaminated meat and poultry products. S.T.O.P., therefore, strongly supports the proposed rule. However, as noted above, we believe public health could be further protected by fully identifying all retail establishments that might have received

contaminated product, and by publishing the names of those establishments in USDA's recall press releases. Thank you again for the opportunity to provide comments.

Respectfully submitted,

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