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May 16, 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 No. 04-026N
Federal Register Monday, February 27, 2006
Vol. 71, No. 38
Pages 9772-9777

Gentlemen:

On behalf of National Meat Association (NMA) members we respectfully submit comments in response to the Food Safety Inspection Service request regarding the *Federal Register* Notice entitled "*Salmonella* Verification Sample Result Reporting: Agency Policy and Use in Public Health Protection"

NMA, organized in 1946, represents the interest of meat packers and processors throughout the United States. Our general membership is approximately 300 members of which 85% are beef slaughters and beef grinders strongly committed to enhancing the safety of meat and poultry. In this regard, we support the Food Safety and Inspection Service's (FSIS) efforts to work with all interested parties in reducing the *Salmonella* incidence rate. Our comments below are suggestions as to how to improve the effectiveness of the policies articulated in the Notice.

Notification to Establishments of FSIS *Salmonella* Test Results

FSIS will apprise establishments as the individual test results become available – currently, establishments have to wait until the end of the sampling set to receive results.

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NMA supports providing such information during the sampling set as it will provide "real-time" feedback to an establishment as to its performance. This, in turn, could enable an establishment to fine tune its process, if necessary, in the event positive findings are reported.

We do have one additional comment concerning this topic. In the Notice, FSIS indicates that by sharing the data during the set, the individual establishment's completed set results will no longer be exempt from disclosure under the Freedom of Information Act (FOIA). We respectfully disagree with this position. As we understand FSIS' justification for why completed set results are currently exempt from FOIA disclosure, it is because these results are "pre-decisional." It seems to us that if the completed sets are pre-decisional and remain so now, even if shared with the establishment, sharing the underlying individual results should not and could not alter the pre-decisional nature of the set results. Therefore the completed sets (as well as the individual results) would remain exempt from FOIA disclosure.

Publication of FSIS *Salmonella* Data

FSIS will now publish its *Salmonella* test results on a quarterly basis, as opposed to yearly. NMA supports this increased frequency of reporting, but requests that FSIS not make any comparisons to previous yearly results to avoid any misunderstandings.

Classification of Establishment Based on Agency Sample Results

FSIS will establish three categories of establishments and take varying enforcement actions based on the establishment's classification:

- Category 1: Consistent Process Control – An incidence rate of 50% or less of the performance standard/baseline guidance.

- Category 2: Variable Process Control – An incidence rate from 51% to 100% of the performance standard/baseline guidance.

- Category 3: Highly Variable Process Control – An incidence rate greater than the performance standard/baseline guidance.

The agency will move away from a once per year sample set for all establishments and adjust frequency based on the test results.

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Although NMA supports FSIS' intent to focus its resources based on an establishment's objective performance, a strict application of these classifications to the beef industry may be excessive given the low performance standards in terms of the number of positives per set and the inherent variation in any sampling program. For example, the ground beef standard is 5 per 53 sample set. Using 50% of the standard as the level of "consistent process control" means that a beef grinder would be deemed to lack process control if it had more than 2 positives in the sample set. It becomes even more extreme for steers and heifers where the Performance Standard is 1 per 83 sample set. In this case, it is impossible to be at 50% of the standard.

Based on this, we would respectfully suggest that in the case of standards which are already low, the agency should exercise discretion rather than automatically increasing *Salmonella* sampling (and scheduling Food Safety Assessments) at establishments that are only marginally over the 50% enforcement standard, absent specific cause.[*] In addition, we would respectfully request that FSIS articulate the factors it would use in allocating resources based on an establishment's category. This would ensure more transparency in allocating resources.

We do wish to emphasize that the above concern is not based on any apprehension that our members have in routinely meeting the *Salmonella* Performance Standard. We are proud of the reduction in *Salmonella* since the standard was first initiated. Indeed, based on FSIS ground beef data, the reduction has not only been impressive, it has been consistent.

Year	1998	1999	2000	2001	2002	2003	2004	2005
% Positive	6.4%	4.34%	3.29%	2.83%	2.55%	1.68%	1.63%	1.12%

The rates for cow/bull and steer/heifer have likewise demonstrated the industry's control as measured by the performance standard.

Serotyping Positive Samples

FSIS will provide establishment with the serotype of any positive shortly after the positive result is first reported. Additionally, the cumulative serotype data will be posted on an annual basis. NMA supports the sharing of serotype results with the establishment and the annual publication of the results.

[*] We recognize that FSIS noted that "the slaughter and slaughter/processing combination plants are the Agency's first concern, but policy for grinders will be assessed during that year as well." That being said, we also would respectfully request additional clarification so that this priority is uniformly applied to all establishments.

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Sub-Typing *Salmonella* Positives

FSIS will sub-type *Salmonella* positives and also assess phage-typing.

NMA supports FSIS continuing to conduct sub-typing activities. However, as we understand the science, there is some question as to whether pulse field gel electrophoreses (PFGE) is appropriate for *Salmonella* sub-typing. Instead, phage-typing seems to provide more reliable/useable information. We respectfully suggest that FSIS explore the merits of both methods and not take any precipitous action based on one until the best method is established.

On a related matter, we understand FSIS has and will continue focusing on a particular establishment if there is a foodborne outbreak and the epidemiological and laboratory evidence lead to that establishment. It would seem appropriate for FSIS to provide some formal articulation of its current thinking so that all establishments can understand, in advance of a crisis, the agency's policy. This articulation would further the goal of transparency in regulatory investigations and possible enforcement.

Conclusion

We appreciate the opportunity to submit comments on the agency's *Salmonella* Notice. As always, NMA looks forward to working with FSIS to further enhance food safety.

Sincerely,

Rosemary Mucklow
Executive Director

Ken Mastracchio
Associate Director