AMERICAN ASSOCIATION OF MEAT PROCESSORS

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Bernard F. Shire

March 22, 1999

FSIS Docket Clerk
USDA-FSIS
Room 102 Cotton Annex
300 12th Street SW
Washington, DC 20250

RE: FSIS Docket No. 97-068N, Federal Register Notice January 19, 1999, Beef Products Contaminated with *Escherichia coli* O157:H7

The **American Association of Meat Processors (AAMP)** is submitting the following comments concerning the **U.S. Department of Agriculture-FSIS** Notice of January 19, 1999 that greatly expanded the Department and Agency's policy regarding beef products contaminated with E. coli O157:H7.

AAMP is a national trade association with more than 1800 members representing meat and poultry processors, slaughterers, wholesalers, retailers, home food service companies, caterers, as well as suppliers and consultants to the meat industry. Most of our members are small, very small and medium sized meat and poultry establishments and stores.

These comments by AAMP are in addition to those submitted jointly by AAMP and a number of other industry associations. AAMP also includes in these comments its preliminary statement at the March 8, 1999 public meeting concerning an industry proposal to voluntarily test a certain number of carcasses for *E. coli* O157:H7.

Right now, AAMP and some of its members, particularly small slaughterers, are planning to meeting with large meat packers to discuss how carcass testing of *E. coli* O157:H7 would affect the smaller industry. We hope to have additional comments at that time.

AAMP Opposes Expansion of FSIS *E. coli* O157:H7 Adulteration Policy

The American Association of Meat Processors does not support the expansion of the FSIS policy on *E. coli* O157:H7 as an adulterant. AAMP opposes it. USDA did not submit this change through rulemaking, claiming its proposed policy only "clarified" its current policy. But the change announced on January 15 is a great expansion, affecting many other products.

FSIS Has No Scientific Basis For Expanding Policy

The January 19 notice changes Agency policy by making intact meat products that have been tenderized, needled, scored, injected or marinated contaminated if they test positive for *E. coli* O157:H7. There is no scientific data that shows any risk to the public from these products made with these practices. There is no evidence of any illnesses from consuming these products. There are scientific studies that show that consumers are not threatened by eating products made using these methods.

In 1997, the **National Advisory Committee Microbiological Criteria for Foods** said there is a lack of scientific data on hazards associated with those processes. Research showed that tenderized steaks cooked to a proper temperature showed a large reduction in E. coli O157:H7 , and that using valid antimicrobial interventions during processing greatly decreased the likelihood of even low levels of pathogens on meat to be tenderized. The study found that meat safety results from the various pathogen control measures taken during processing. For these reasons, we recommend that FSIS' plan to expand its contamination policy to tenderized meat products be dropped.

Good arguments can be made that the present *E. coli* O157:H7 adulteration policy in ground beef is ineffective, makes no sense, and has done nothing to protect the public from this pathogen. Likewise, the expansion of this policy back up the food chain is not justified, when the Agency has no scientific research or evidence to show that it is justified.

USDA Ignores NAS "Safe Food" Recommendations

On March 15, the **President's Council on Food Safety** released its opinion of the **National Academy of Sciences (NAS)** report, ***Ensuring Safe Food From Production to Consumption.*** The President's Council made several recommendations. The first one was that it supports NAS Recommendation 1, which states that the food safety system should be based on science. In its assessment, the Council provides examples where this has happened, but others where it has not.

The Council goes on to support NAS Recommendation IIa, which asks that federal statutes be based on scientifically supportable assessments of risks to public health.

The action being taken by FSIS goes against both of these recommendations. The Agency plan to greatly expand its policy on *E. coli* O157:H7 has no scientific basis. It is certainly not based on any risk assessment, because according to **FSIS Administrator Thomas Billy**, the Agency is in the process of doing a risk assessment on *E. coli* O157:H7 right now. Billy said recently the assessment will probably not be finished until some time in the fall. Why would the Agency make a policy change that should be based on risk, when it doesn't yet know what the risk would be? Only after the risk assessment is done can the Agency even begin to look at its policy on O157:H7, via the formal rulemaking process. It sounds to us like FSIS has came up with the "answer" first, and is searching for the "question" to justify it.

New Policy Could Result In Less Testing

If USDA-FSIS carries through and adopts its new policy on *E. coli* O157:H7 as a contaminant in all raw beef products, it is very likely that there will be less voluntary testing by industry. An indication of this is the reaction of one of the major beef slaughterers and suppliers of beef in the United States when the new FSIS policy was announced. The beef supplier tried to force processor purchasers to agree not to test, and to require any downstream customers not to test, under threat of requiring them to take on all responsibility in case of a product recall. While the company withdrew its requirement – it is unlikely that the requirement would have stood up if challenged in court due to the Uniform Commercial Code, which limits the ability of a company to disclaim responsibility for the product it sells – the incident showed how the FSIS policy could eventually result in massive, unjustified recalls, as well as cause great disruptions in the meat industry, for no reason.

Microbial Sampling Is Not The Answer

In comments to USDA at its public meeting on March 8, the **American Meat Science Association (AMSA)** said that the main purpose of microbiological testing of foods is to validate and verify process control measures in the context of a properly implemented HACCP system. The Association also said that foodborne pathogens will not be detected consistently when they are non-randomly distributed or occur at a low incidence.

AMSA also said that declaration of a foodborne pathogen in raw products (e.g. *E. coli* O157:H7 in certain raw beef products) discourages testing for that pathogen, leads to a false sense of security among consumers, discourages evaluation of potential control measures and encourages the inappropriate use of microbiological testing. What that means is that no amount of testing can prove that a pathogen like *E. coli* O157:H7 is not present in a particular lot of product, no matter who does the testing, or where it is done. Therefore, there is no reason that we can see for FSIS to make the pathogen an adulterant at all stages of beef production. Which gets us back to the question: Why is FSIS expanding its contamination policy?

The **National Advisory Committee on Meat and Poultry Inspection (to Agriculture Secretary Dan Glickman)** also recommended that FSIS publicize in a major way that product contaminated with *E. coli* O157:H7 be diverted to other uses, including cooking. FSIS said it would begin implementing such a policy. Yet FSIS has never carried out the recommendation. Why not?

AAMP recommends that USDA put on hold its plan to expand its policy on *E. coli* O157:H7 contamination in beef products. The Department has shown nothing to justify an expansion of the policy. The Department's own sampling program has found only a handful of positives out of more than 27,000 that the Agency has taken over the past five years. USDA has no evidence at all to support applying the contamination policy to tenderized products. There is evidence to show that the pathogen may be present in hides, as well as in the intestines of cattle. There is a

need for much more research to be done on the farm or ranch. That may be the location where the pathogen can be stopped, before it gets to the slaughterhouse.

AAMP is committed to working with FSIS and other organizations within the meat and poultry industry, starting back at the farm, and forward to food service and retail, to find ways to eliminate this deadly pathogen. We look forward to doing so in the future.

Sincerely,

Bernard F. Shire, Director
Legislative & Regulatory Affairs

cc: Thomas E. Dewig, AAMP President
Thomas J. Billy, Administrator, FSIS

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USDA Public Meeting on Proposed *E. coli* O157:H7 Policy, March 8, 1999
Comments – American Association of Meat Processors
Bernard Shire, Director, Legislative & Regulatory Affairs

The **American Association of Meat Processors (AAMP)** represents a large part of the small meat industry. We have 1800 members, and 1500 of them are meat plant operators. They are involved in all phases of the meat business.

Some of our members make one product. Some make dozens. Some slaughter one species, others several species, but they are small slaughterers. Others make sausage, while others do nothing but grind beef. There are some who cut steaks. And still others make the bulk of their living from producing Ready To Eat product. Others do a little bit of everything. But they all have one thing in common: they do what they do on a small scale.

I mention this because we've listened to the proposal that the big packers are making, in response to the USDA proposal to expand its adulteration policy on ground beef. That policy, if accepted, would result in more prosecution of meat processors by the government. But it would do nothing to prevent *E. coli* 0157:H7 from getting into meat, and would continue the USDA policy of occasionally finding the pathogen in inspected and passed meat, when it's too late to do anything about it. There are things about this proposal that sounds very promising. But the idea also raises a lot of questions that need to be answered.

1) How will this proposal affect small slaughterers, as well as big packers?

2) What responsibility do the ranchers and farmers have, since their animals are the reservoir for *E. coli* O157:H7?

3) This idea to test beef carcasses for *E. coli* O157:H7 has been proposed by industry as a voluntary program. What will happen to slaughterers that don't participate, for whatever reason? Would their product be considered not as good? Is there a danger of a two-tier inspection system being set up?

4) I was in a small slaughter plant recently, where they kill one animal at a time, 10 a day, two days a week. They do a very fine, clean job, they don't have to deal with the numbers and other problems in large slaughter plants. They may have only one intervention step. It takes care of everything. Would they need to go to three or four intervention steps, when one works fine? What if they don't? Will they be discriminated against?

5) If FSIS sampling for *E. coli* O157:H7 isn't thought to be very effective, why would industry sampling be more effective?

6) How many interventions will slaughterers need in order to take advantage of Directive 10,010.1? While some big packers can take advantage of new technology, such as steam pasteurization, and run three or four interventions, that kind of technology will likely be too costly for small packers. Is one intervention valid?

7) What will be the next step down the regulatory road? How long can small industry survive a never-ending imposition of more and more regulations?

We hope that FSIS will extend the comment period on its proposal on *E. coli* O157:H7 adulteration. Our Meat Inspection/Governmental Affairs Committee needs answers to a lot of questions about this proposal, including test methods that would be both quick and meaningful scientifically. We look forward to working with others in industry, FSIS and consumers on finding ways to prevent *E. coli* O157:H7 from causing illness in the United States.

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