

November 14, 2000



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FSIS Docket Clerk  
Docket #99-029P  
United States Department of Agriculture  
Food Safety and Inspection Service  
Room 102, Cotton Annex Building  
300 12<sup>th</sup> Street, SW  
Washington, DC 20250-3700

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99-029P  
99-029P-18  
Steven G. Johnson

Re: FSIS Docket No. 99-029P  
Sharing Recall Information with State and Other Federal Agencies

To Whom It May Concern:

Norbest, Inc. is a federated cooperative representing many independent turkey growers from Nebraska to Utah. Norbest markets turkeys and turkey products throughout most of the United States and to several foreign countries. We desire to comment on the proposal to share some proprietary information with state and other federal government agencies when a recall of meat or poultry products is being conducted. The proposal was published in the September 19, 2000 *Federal Register*.

Norbest, Inc., its cooperative members and the individual turkey growers are committed to providing safe, wholesome and nourishing food to our customers. We as a company believe that any potentially harmful products should be removed from distribution channels as quickly and effectively as possible. However, the proposal as written does not contain sufficient safeguards to protect proprietary information, as set forth hereafter.

There is no need to divulge proprietary information to interested parties in Class II or in Class III recalls. With Class II recalls there is only a remote probability of adverse health consequences. With Class III recalls, the use of the product will not cause adverse health consequences. The sharing of "confidential commercial information" should be limited to Class I recalls where there is a reasonable probability that the use of the product will cause serious, adverse health consequences.

There is no need to divulge such confidential commercial information to state or other federal agencies where the company involved in the recall has already certified to FSIS that it has provided the relevant confidential commercial information to such agency or agencies as part of its recall plan. A provision should be included in the proposal that limits disclosure in such cases.

The proposed rule does not specify what "confidential commercial information" FSIS will consider sharing with state and federal agencies during a recall. The rule should clearly

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state the types of information that the agency will consider sharing. FSIS should only share with such other agencies the information that is relevant to the specific states or federal agencies and that will directly assist those agencies in tracking and verifying removal of the recalled product. The scope of the rule should be specifically limited to such information.

In a similar vein, "confidential commercial information" should be shared only with those agencies which are responsible for enforcing food safety statutes and that can assist FSIS in verifying the removal from commerce of adulterated or misbranded products. Other interested agencies or parties which do not play a direct role in implementing or enforcing food safety mandates should not be given access to the "confidential commercial information".

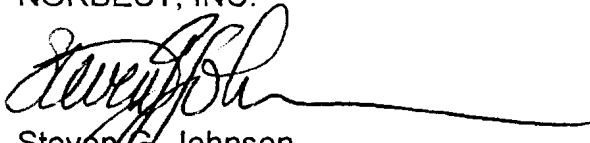
Although the proposed rule contains some restrictions on disclosure to state agencies, the rule provides that the information will not be disclosed unless the agency has provided a written statement establishing its authority to protect the confidential commercial information from public disclosure. However, there are no sanctions for violation of this commitment by the agency. For this reason, the proposed rule should be amended to state that confidential commercial information will not be shared with any state or state agency which does not have a confidentiality statute that prohibits the state from releasing such information to the public.

Finally, whenever FSIS receives a request for the sharing of confidential commercial information, or otherwise determines on its own to share such information, then the agency should immediately notify the establishment which provided the information to FSIS. This notice requirement should also be included in the rule.

Thank you for your consideration of these comments.

Sincerely,

NORBEST, INC.



Steven G. Johnson  
Director of Legal & Administrative Services

SGJ/cbm

cc: Steven R. Jensen  
John B. Hall  
Ronald L. Attebury