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February 3, 2000

FSIS Docket Clerk  
Docket No. 99-055R  
USDA, FSIS  
Cotton Annex, Room 102  
300 12<sup>th</sup> Street, SW  
Washington, DC 20250-3700

99-055R-7  
99-055R  
Charles C. King

RE: Exemption of Retail Operations from Inspection Requirements

Review Committee:

The primary reason for submission of this letter is to strenuously object to the method FSIS used in implementing this interim final interpretative rule that has already had a major negative impact on this state's food safety program. I am referring to the almost simultaneous request by the nation's largest wholesale club organization to voluntarily withdraw from inspection all of their meat markets which have been under state inspection for several years. This abrupt change of a FSIS policy which, according to this notice has been utilized since 1976, which became effective on January 4, 2000, allowed this large organization to withdraw from inspection immediately prior to the implementation of HACCP and terminates their participation in our pre-implementation phase of the pathogen reduction program for ground meats. I understand that this same action has been taken in all states where their meat market sales have not exceeded the monetary values discussed in this notice. I thought the idea was to bring as many meat and poultry processors as possible under the HACCP/Pathogen Reduction program umbrella – not to allow a very large number of plants to withdraw from inspection. I expect that many other very small plants that have just now implemented HACCP and are now under the regulatory phase of pathogen reduction, will follow their competitors example and also withdraw from inspection. This is a step backward for our food safety program.



## DEPARTMENT OF LIVESTOCK POULTRY HEALTH PROGRAMS

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Public Service Activities

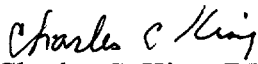
Some secondary reasons for this letter of complaint are as follows.

- a. In paragraph 2 of the Supplementary Information heading, FSIS cites 9CFR 301.1(d) and 381.10(d) for saying “FSIS addresses the conditions under which Federal and State inspection requirements do not apply to retail operations.” This statement is not quite correct in that there are no references in the Federal Meat Inspection Act or Poultry Products Inspection Act or regulations that require state inspection programs to have the exact retail exemption requirements as FSIS. Our state laws and regulations have been repetitively reviewed and approved by FSIS for over 30 years and they are not exactly the same requirements as used by FSIS.
- b. In paragraph 5 of the Supplementary Information heading, FSIS says “The Administrator adjusts the dollar limitation, which is currently \$41,000.00 under the FMIA and \$39,000.00 under the PPIA when the Consumer Price Index indicates a change of more than \$500.00 in the price of the same volume of product”. For the past 24 years “the same volume of product” included “pass through products” in adjusting the total dollar value limitation. Can we expect the current \$41,000.00 and \$39,000.00 total annual sales limitations to be significantly decreased because of the removal of the “pass-through products” from this calculation?
- c. In the same paragraph, FSIS correctly state their compliance policy as “FSIS applies these limits when it investigates complaints alleging that retail stores claiming exemption under ..... have been operating in violation of the conditions prescribed in the regulations.” In effect this says that all retail stores using the retail exemption are in compliance and FSIS will investigate only when someone files a complaint alleging violations of the limits by some other retail store. Does FSIS have the responsibility or authority to verify the accuracy of the computer records presented by the large wholesale club organization that is currently in the process of voluntarily withdrawing many or most of their meat markets from inspection?

Please note that I am not objecting to the deletion of “pass through products” in calculating the total annual sales limitation. I am objecting to the method and timing FSIS used in abruptly changing a long standing policy and the detrimental effect it is producing on our food safety program in South Carolina. We should have been given an opportunity to express our opinion prior to implementation of the rule. I request that FSIS use all of their resources mentioned in the last paragraph to provide details for this action at this particular time and specifically address my concerns addressed in this letter.

Considering the negative impact upon our food safety program that this interim rule has already created, I request that it be withdrawn and the entire subject of retail exemptions be thoroughly reviewed with input from all interested agencies prior to implementation of a final rule.

Sincerely,

  
Charles C. King, DVM  
Director, South Carolina  
Meat-Poultry Inspection Department