



# Consumer Federation of America

June 15, 2011

Docket Clerk  
U.S Department of Agriculture, FSIS  
Room 2-2127  
George Washington Carver Center  
5601 Sunnyside Avenue  
Mailstop 5474  
Beltsville, MD 20705-5474

**Re: Docket No. FSIS 2005-0044**

To Whom It May Concern:

The Consumer Federation of America (CFA) appreciates the opportunity to comment on the Food and Safety and Inspection Service's (FSIS) Federal Register notice regarding Not Applying the Mark of Inspection Pending Certain Test Results (**Docket No. FSIS 2005-0044**).

CFA is an association of nearly 300 non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy and education. Member organizations include local, state, and national consumer advocacy groups, senior citizen associations, consumer cooperatives, trade unions and food safety organizations. CFA's Food Policy Institute was created in 1999 and engages in research, education and advocacy on food safety, food and agricultural policy, agricultural biotechnology, and nutrition.

CFA supports the agency's decision to implement a new policy that would prohibit meat and poultry products from entering commerce until negative test results from agency testing are available. In its notice, FSIS further clarified that product could be shipped to another location as long as the establishment remained control of the product until the test results became available. Previously, FSIS has requested that establishments maintain control of product until negative test results are available but has not required them to do so. Consequently some establishments were shipping product into commerce prior to FSIS receiving its test results. When the test results were found to be positive, the establishments had to recall the product.

In its notice, FSIS identified 44 Class I recalls during 2007 and 2009 in which an establishment did not hold the sampled product and the sample turned out to be positive

for an adulterant. The agency is clearly aiming to avoid these types of recalls with this notice. FSIS is also clearly seeking to avoid any embarrassment for the agency or the industry, as well as any subsequent drop in consumer confidence in the safety of meat and poultry products, as a result of having to recall contaminated product that had been placed into commerce before test results were received.

In subsequent years, if the number of recalls does decrease as a result of this policy, industry and the agency may be tempted to point to the decrease in recalls as proof that meat and poultry products are safer. CFA strongly cautions against this interpretation. A noticeable decrease in recalls may be a construct of this new policy rather than an actual improvement in the safety of meat and poultry products. CFA further urges the agency to be very clear in its public statements, reports, and on its website about the likely impact this policy may have on the number of recalls. FSIS should specifically caution against interpretations which claim significant improvements in safety that are in actuality, a construct of this new policy.

CFA has long supported the concept of “test and hold” and believes that the requirement to hold product from commerce until negative test results are received should apply to tests conducted by establishments as well. All establishments should test and hold products pending confirmation of both company and FSIS tests to better assure that contaminated product does not enter commerce. CFA is familiar with a number of companies who hold their products until a company test is confirmed negative. Such policies are commendable and appropriate.

Finally, FSIS should consider defining a lot and subplot for the purpose of sampling and testing, so that both the plant and FSIS are testing the same sized lot. The agency should also provide guidance on how a positive agency test result would apply to specific lots and sub-lots of product under this policy. It is CFA’s understanding that questions have arisen in the past with respect to which sub-lots were implicated when FSIS received a positive test result. Definition of a lot and guidance from the agency could help clarify this situation and provide the agency with assurance that all potentially-contaminated lots were being diverted to cooking or destroyed.

Thank you for the opportunity to submit these comments.

Sincerely,



Chris Waldrop  
Director, Food Policy Institute