



Consumer Federation of America

July 6, 2012

Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
Patriots Plaza 3
1400 Independence Avenue SW, MS-3782
Room 8-163A
Washington, DC 20250-3700

Re: Docket No. FSIS 2011-0009

To Whom It May Concern:

The Consumer Federation of America (CFA) appreciates the opportunity to respond to the Food Safety and Inspection Service's (FSIS) Federal Register notice and request for comment on Changes to FSIS Traceback, Recall Procedures for Escherichia coli O157:H7 Positive Raw Beef Product and Availability of Compliance Guidelines (**Docket No. FSIS 2011-0009**). CFA is a nonprofit association of nearly 300 consumer groups that was established in 1968 to advance the consumer interest through research, advocacy and education.

CFA Supports FSIS' New Traceback Policy

Traceback and trace forward activities are not just important in responding to outbreaks of foodborne illness, but are also important to help prevent illness from occurring. In its Federal Register notice, FSIS acknowledges that its current traceback policy has been limited to activities conducted only after a foodborne illness outbreak has occurred and consumers have already been sickened, or a protracted period of investigation following a confirmed positive test result. Consumer groups have previously criticized the agency for not taking a more preventive approach to tracing potentially contaminated product and have advocated for full tracing back to the source following positive findings from agency testing.

As described in the notice, FSIS is proposing to conduct more thorough traceback activities following a *presumptive* positive test result for *E. coli* O157:H7 at establishments that produced the *E. coli* positive result as well as suppliers that provided source materials to the establishment. CFA strongly supports this new approach. Commencing traceback activities following a presumptive positive instead of waiting for confirmation results will save the agency critical time in responding to potential microbial threats to consumer safety. CFA continues to support FSIS' policy announced October 8, 2010 for inspection personnel to collect information on source materials and suppliers at the time they take samples for *E. coli* O157:H7 in order to expedite

traceback activities. Under the new proposal, the agency will now conduct traceback activities to the supplier establishment for sole source products and then conduct trace forward activities to additional establishments that may have received product from that same supplier. FSIS indicates that it would request a recall from the slaughter or trim supplier establishment if the agency were able to identify that establishment as the source of the contamination. This new policy will likely result in food safety improvements for consumers. FSIS' own data shows that 63% of positive samples in 2009 and 2010 were derived from sole source suppliers and additional recalls may have been necessary had this policy already been in place.

This new policy is particularly important because small grinding facilities may purchase and re-grind only a small portion of a given slaughterhouse's product lot while the rest is purchased by other facilities. Consequently, if FSIS testing reveals adulteration at a single grinding facility, it is likely that other meat from the same lot is in commerce. Quickly identifying and recalling this product will better protect consumers from foodborne illness by ensuring that *E. coli* O157:H7-contaminated product is removed from commerce. One recent example of this approach is the August 12, 2011 recall by National Beef. Following an *E. coli* O157:H7 positive result during routine testing at a state-inspected facility, an FSIS traceback investigation revealed that National Beef Packing Co, was the sole source of the positive product sample. A recall was conducted As a preventive measure to remove the contaminated product from commerce and protect consumers. CFA supports FSIS' enhanced traceback procedure to better protect consumers from foodborne illness.

FSIS Should Continue to Enhance Traceback Policy for Product from Multiple Suppliers

While the proposal improves traceback activities for contaminated product that can be traced to sole source suppliers, agency policy will not change with regards to product from multiple suppliers. CFA strongly encourages FSIS to continue to work towards developing improved traceback procedures for product from multiple suppliers. Testing unopened containers from all suppliers available at the grinding establishment when a positive test result has been identified is a critical step to identify the contaminated source lot. In the notice, FSIS states that it intends to conduct a study to test product from unopened containers or purge material from suppliers' product for *E. coli* O157:H7 to help identify the sources of the positive material. CFA supports this effort and encourages the agency to use the findings of the study to further enhance traceback policy to better trace product from multiple suppliers. FSIS should also update stakeholders on the results of the study once it is complete as well as the agency's plans for moving forward.

FSIS Should Revise HEP Target, Provide Detail on Enforcement

In the notice, FSIS identifies high event periods as a high rate of *E. coli* O157:H7 in trim samples during a defined period of time that may mean a systemic breakdown of the plant's production process. FSIS selected a target of 5% for its HEP criteria, but based this number on a survey of what industry was already doing, rather than a statistically-derived number. Since many plants are likely already meeting this 5% HEP target, FSIS should periodically revisit and revise the target number as necessary based on a regular review of industry data and performance.

FSIS notes that the agency's notice imposes no requirements on establishments to set a specific HEP rate for their processes. Consequently, establishments could set a higher rate than FSIS'

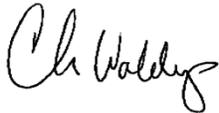
target of 5% or set no rate at all. FSIS should provide greater detail on how the agency would take such findings into consideration during a traceback and whether the agency would consider a rate higher than 5% indicative of a problem in the establishment.

Sampling and Testing Label Claims Should Not be Displayed to Consumers

CFA agrees that labels bearing sampling and testing claims on beef products should not be displayed to consumers. Such claims could be misleading, causing consumers to believe products are pathogen-free. As FSIS notes, a label cannot verify that a particular beef product has been sampled and tested, rather that sampling and testing of a production lot has occurred. In addition to the information FSIS requires on a label bearing a sampling and tested claim, FSIS should consider requiring a statement that further clarifies that the claim is not a representation that the labeled beef trim is free of *E. coli* O157:H7. FSIS could require a statement such as “A negative test for *E. coli* O157:H7 does not guarantee that all of the beef trim from the sampled production lot is free of *E. coli* O157:H7.” A clarifying statement such as this could provide additional assurance that the claim is not misleading and could provide further clarification to receiving establishments as to the nature of the claim.

CFA appreciates the opportunity to comment on FSIS’ proposed traceback policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Waldrop". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Chris Waldrop
Director, Food Policy Institute