Consumer Federation of America

May 2, 2010

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 2010-0008

To Whom It May Concern:

The Consumer Federation of America (CFA) appreciates the opportunity to respond to the Food and Safety and Inspection Service's (FSIS) Federal Register notice and request for comment on Improving Tracing Procedures for E. coli O157:H7 Positive Raw Beef Product **(Docket No. FSIS 2010-0008)**.

CFA is a non-profit association of some 280 organizations, with a combined membership of over 50 million Americans. Member organizations include local, state, and national consumer advocacy groups, senior citizen associations, consumer cooperatives, trade unions and food safety organizations. Since its founding in 1968, CFA has worked to advance the interest of American consumers through research, education and advocacy. CFA's Food Policy Institute was created in 1999 and engages in research, education and advocacy on food and agricultural policy, agricultural biotechnology, food safety and nutrition.

FSIS Should Traceback Positive Findings to the Source

FSIS has maintained a bifurcated policy on traceback for many years. The agency conducts different traceback activities when responding to an outbreak of foodborne illness than it does when the agency identifies a positive pathogen result through its microbiological testing program. In the event of a foodborne illness outbreak, FSIS conducts a full complement of steps to trace back to the source of raw materials when an outbreak indicates that *E. coli* O157:H7-adulterated product entered commerce. FSIS does not trace the beef back to the source facility when the agency learns through its own *E. coli* O157:H7 testing program that contaminated beef is in commerce. FSIS does ask the company at which the original positive test result was found to conduct a recall in this case, acknowledging that the product is a threat to public health, but does not take the

next step of tracing the contaminated meat back to be sure that contaminated meat from the same source facility has not been distributed by other processors.

This is problematic and threatens public health because there may be additional contaminated product in commerce. Small grinding facilities may purchase and re-grind a small portion of a given slaughterhouse's product lot of beef while the rest is purchased by other facilities. If FSIS testing reveals adulteration at that single grinding facility, current agency policy is to prohibit the tested grinder from selling any of the product. However, since that product was only a portion of the slaughterhouse's product lot, there is likely other meat from that same lot in commerce. Yet FSIS does not attempt to identify any other firms that received portions of the original product or to inform those firms that they may have received adulterated product. Without notification from FSIS, the other grinding establishments will continue to use and sell ground beef made from the same production lot as the tested, adulterated material, needlessly exposing consumers to illness and death.

There is no scientific basis for following one policy when *E. coli* O157:H7 adulteration results in an illness and another when FSIS testing finds *E. coli* O157:H7 adulteration before it has had the opportunity to cause an illness. On average, FSIS' routine testing program for *E. coli* O157:H7-adulterated product in federally-inspected or retail facilities finds the pathogen 40 times every year. Current policy means the USDA is passing up 40 opportunities each year to prevent foodborne illness tragedies. This failure to act is not consistent with a preventive, public health-based program and threatens consumers on a daily basis. FSIS should adopt a specific policy to follow the same procedure when it learns from its routine testing program that *E. coli* O157:H7-adulterated product entered the production or distribution chain as it does in response to *E. coli* O157:H7-related illness.

FSIS Should Test Unopened Product

At the March 2010 public meeting, the public learned that FSIS cannot legally request that all product from an originally-contaminated lot be removed from the market unless the agency has a positive test result for *E. coli* O157:H7 from product from the original supplier. The public also learned that FSIS only tests finished product at further processors and does not presently test unopened packages of product from supplying plants that may still be at the grinding facility or at a distribution center.

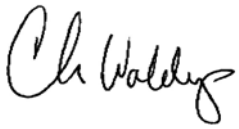
At the public meeting, FSIS proposed a new set of instructions to its Enforcement Investigations and Analysis Officers (EIAOs) for conducting product traceback when raw ground beef or beef trim tests presumptive positive for *E. coli* O157:H7 under FSIS' verification testing program. FSIS maintains that these instructions will help the agency identify affected product and potential suppliers earlier in the process as EIAOs will collect information about the source material, the establishment and the supplier(s) following a presumptive positive. This is important information to collect and collecting it earlier in the process is a step forward. However it was unclear from the presentation what actions could result following the information collection process. FSIS should

provide clarity on how the agency will respond to findings of concern that arise from the EIAO investigation.

However, nothing in the presentation indicated that FSIS would propose testing unopened product from the originating supplier following the finding of a positive test result for E. coli O157:H7 at a grinding facility. This is of primary importance so that agency is able to legally require that all contaminated product from the supplier be removed from the market. CFA strongly urges the agency to adopt a new policy that, following a positive test result from its microbiological testing program, FSIS should test unopened product from the supplier(s) at grinding facilities where the positive test result was found or at distribution centers that may still have unopened product from the originating supplier(s). FSIS should then conduct a full complement of traceback activities back to the source to remove all contaminated product from the marketplace.

Thank you again for this opportunity to comment.

Sincerely,



Chris Waldrop
Director, Food Policy Institute