

PolicyPennings by Dr. Daryll E. Ray

Recall notices serve the intended legal purpose but leave some questions unanswered

Meat recall notices warn consumers not to purchase or use specific meat products from specific processors or locations. And, just during this calendar year there have indeed been a number of recalls. Between January 1, 2009 and August 17, 2009, in addition to the JBS Swift recall of 380,000 pounds of assorted primal beef cuts, 9 smaller recalls were issued for E. coli O157:H7 in ground beef or fresh beef trim products. The smaller recalls involved 152,000 pounds of product. The largest was nearly 96,000 pounds while the smallest was 75 pounds.

While the recall notices serve their intended purpose of informing the consumer of the recall and the forms and processor's lot numbers in which the product was sold, there is still additional information that is not available to the public that might be helpful to concerned consumers and researchers like ourselves.

For example there is no way of easily finding out whether the recalled meat was slaughtered on the processor's site or if it came from a slaughter facility. And if the meat came from a slaughter facility, the plant that was the source of the material and the primals' lot number from which the contaminated ground beef or trim came is not made public.

These additional questions need to be answered in order to determine whether or not a link can be made between the E. coli that is allowed on primals and subprimals and the resulting E. coli contamination of ground beef and bench trim. For many, the connection seems painfully obvious, but one USDA official told us that the packing industry could sue the USDA if the USDA determined that E. coli was an adulterant in the absence of an evidential link between the presence of E. coli on primals and its subsequent presence in ground beef.

Perhaps that is the rationale behind the USDA's decision to undertake an E. coli testing program of bench trim over the next year. Under the protocol developed for this testing, upon a laboratory confirmation of a presumptive positive the testing personnel are "to begin collecting the information regarding the suppliers of the source materials used in the production of the product.... This information will be used in the event that the results are confirmed positive."

According to an FSIS official, the determination that E. coli is an adulterant in ground beef was upheld in court in part because the USDA was able to show that the average household cook considered a ham-

burger to be done at a temperature that was less than the temperature required to effectively kill the E. coli O157:H7 bacteria.

With the announced bench trim testing and the five questions that FSIS Deputy Administrator Kenneth Petersen gave further processors at an August industry meeting in Chicago, the USDA may be in the process of accumulating the evidence needed to sustain a court challenge if they declare E. coli an adulterant on primals and subprimals.

Ann Bagel Storck, in an article on meatingplace.com, summarized the five questions as follows:

1. What verification methods are your beef suppliers using to provide assurance that E. coli O157:H7 is being adequately controlled? Petersen pointed out that receiving a letter of guarantee or third-party audit on an annual basis does not provide meaningful verification.
2. Are letters of guarantee from each supplier and third-party audit results current?
3. Has there been ongoing communication with suppliers about their food safety controls for E. coli O157:H7? Petersen noted some suppliers make such information available online, although he cautions further processors to make sure the information is plant-specific, not corporate-specific.
4. What do you want or need to know about a supplying establishment's production practices, in-plant testing program, and methods used to notify receiving establishments about E. coli issues?
5. What, if any, measures may need to be taken after receiving product to further support that E. coli is at a less than detectable level in products being produced?"

On the other hand, some bloggers commented on meatingplace.com that this set of expectations is further evidence that USDA is reluctant to confront the major packers and is instead putting pressure on the downline plants as they have since the development of HACCP (Hazard Analysis Critical Control Points) as the means of assuring the safety of the US beef supply.

One blogger wrote, "Since FSIS allows slaughter plants to ship intact meat into commerce which is surface contaminated with E. coli, and still bear the mark of inspection, the answer to [an earlier] ques-

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tion is that the mark of inspection has lost all value and meaning. Suggestion: under HACCP, the official USDA Mark of Inspection should be replaced with a mark which states 'Produced at HACCP Plant # 99999,' for example. I am totally serious. Since the agency deregulated the industry-allows the industry to police itself-while FSIS removed its command and control authority (only at the big plants), placing any mark on meat which states the meat was 'INSPECTED' by the USDA is noncompliant with truth in advertising laws."

One saw the rules as a means of driving the small operator out of business so that the "big grinder" can take over the business.

While food safety has not garnered the public attention given the current health care/health insurance debate here in the US, it clearly is a hot issue with

passions running high.

Given the intensity of the discussion and the ongoing spate of ground beef and bench trim recalls for E. coli contamination, it seems reasonable that this issue will not go away until a whole host of questions are addressed and the problem is solved, either through regulation or significant changes in the process of decontaminating beef carcasses. It will not go away as long as people are hospitalized as a result of E. coli contamination of ground beef.

Daryll E. Ray holds the Blasingame Chair of Excellence in Agricultural Policy, Institute of Agriculture, University of Tennessee, and is the Director of UT's Agricultural Policy Analysis Center (APAC). (865) 974-7407; Fax: (865) 974-7298; dray@utk.edu; <http://www.agpolicy.org>. Daryll Ray's column is written with the research and assistance of Harwood D. Schaffer, Research Associate with APAC.