



U.S. DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

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Food Safety
Martinez
per call

FAX COVER SHEET

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MESSAGE: Charts, Cosponsors & Background

USDA CAN USE FINES TO STOP WHICH OF THE FOLLOWING OFFENSES?

Circuses mistreating elephants	YES
Dealers buying or selling dogs and cats without a license	YES
Incorrect weighing and accounting for livestock by packers	YES
A dealer selling undersized potatoes	YES
A zoo's improper treatment of its animals	YES
Failing to file reports with the onion committee	YES
Exchanging food stamps for cash	YES
A handler's failure to keep appropriate records on watermelons	YES
Interstate movement of certain livestock without a health certificate	YES
Violating food safety laws and regulations	NO

No. 5638 P. 3/3
From: USDA

USDA USEC

06/25/88 13:44 FAX 202 690 2118
Met. 6. 1998 10:52AM

**TO PROTECT CONSUMERS, THE GOVERNMENT CAN
ORDER THE RECALL OF—**

Baby swings	YES
Infant formula	YES
Seat belts	YES
Coffee makers	YES
Juice extractors	YES
Cribs	YES
Toys	YES
Automobiles	YES
Gasoline	YES
Insecticides	YES
Meat	NO
Poultry	NO

Bill Summary & Status for the 105th Congress

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S.1264**SPONSOR:** Sen Harkin (introduced 10/07/97)

11 COSPONSORS:

<u>Sen Daschle</u> - 10/07/97	<u>Sen Leahy</u> - 10/07/97
<u>Sen Johnson</u> - 10/07/97	<u>Sen Durbin</u> - 10/08/97
<u>Sen Murray</u> - 11/06/97	<u>Sen Moseley-Braun</u> - 11/06/97
<u>Sen Boxer</u> - 11/07/97	<u>Sen Mikulski</u> - 02/03/98
<u>Sen Dodd</u> - 05/04/98	<u>Sen Torricelli</u> - 05/18/98
<u>Sen Kennedy</u> - 05/22/98	

MAR 05 '98 05:56PM USDA

**USDA Food Safety
and
Inspection Service**

Background

October 1997

Food Safety Education and Communications Staff
(202) 720-7943; FAX: (202) 720-1843

Improving the Safety of American Meat and Poultry: The Food Safety Enforcement Enhancement Act

The United States is putting in place a state-of-the-art, science-based meat and poultry inspection system. Times are changing. Our food industry is changing. The means by which government ensures food safety have got to change, too.

We lived with the old system for 90 years, but the world is different today. Today's meat and poultry plants are large operations that move millions of pounds of product into grocery stores and restaurants across the country every day.

We now know that traditional sight-touch-and-smell inspections overlook the hidden dangers in our food -- bacterial pathogens like *E. coli* O157:H7 and *Salmonella* -- that pose the greatest threat to public health.

That is why the Clinton Administration is committed to cutting-edge food safety research, to consumer education, and to better ensuring the safety of imported food. A changing food safety environment is also why America needs the Food Safety Enforcement Enhancement Act of 1997.

The Act will enable USDA to levy civil penalties tailored specifically to violations of the new food safety standards and to move quickly against public health threats. It will also give USDA the authority to order recalls of unsafe meat or poultry that is a

threat to consumers. These tools are no substitute for aggressive inspection and oversight, but they will further enhance food safety for America's consumers.

A New Food Safety System

The heart of USDA's new system is Hazard Analysis and Critical Control Points (HACCP). All federally and State inspected meat and poultry plants have to put in place HACCP systems and new sanitary operating procedures. The traditional system was principally visual. Food safety inspectors relied on sight, touch, and smell to prevent contaminated food from entering the market.

The traditional system works in many respects, but has two fundamental flaws. First, rather than preventing contamination, it focuses on catching contamination after it occurs. Second, it cannot detect harmful bacteria like *E. coli* O157:H7 and *Salmonella*, which are invisible to the naked eye. The latest science and technology are not being harnessed to protect American consumers.

The new HACCP system changes all that, putting in place controls to prevent contamination and verifying that the controls are working. It directly targets *E. coli* and *Salmonella*. It is also designed first and foremost to prevent, not just identify, contamination.

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Here's how it works. Each meat and poultry plant is required to identify all of the hazards, or ways in which contamination could occur, in its operation. The plants then establish critical control points at which steps are taken to prevent contamination. After plants validate their plan, or make sure it works, they must keep written records that verify that the system is being faithfully followed. And for the unavoidable system breakdown, the plant follows a written plan to correct the problem and determine what to do with the affected product.

The New Roles of Government and Industry Under HACCP

The HACCP rule makes it clear that industry is responsible for producing safe food. Rather than micromanaging or trying to impose a detailed one-size-fits-all system on every plant, FSIS will set the food safety standards and will allow plant managers to establish procedures that work best for them.

USDA inspectors will be less directly involved in a plant's operations, but they will continue to play a crucial role in protecting the public health. In addition to traditional tasks, such as carcass-by-carcass inspection, inspectors will monitor operations at each plant's critical control points, review records verifying conformance with HACCP plans, and collect samples for scientific testing for pathogens.

USDA needs new enforcement tools to hold industry accountable when, through inspection and compliance activities, USDA finds violations of food safety standards.

New Enforcement Tools Are Needed to Enforce This New Food Safety System

The Food Safety Enforcement Enhancement Act will better protect American consumers by giving USDA enforcement tools that will make this new food safety system work more effectively. The bill will do three things: (1) it will give USDA the power to

s civil fines; (2) it will require notification to

USDA of contaminated meat or poultry and authorize mandatory recalls of unsafe meat and poultry products; and (3) it will clarify and reinforce USDA's authority to refuse or withdraw inspection.

Civil Penalties

An Effective Deterrent Against Food Safety Violations

The Food Safety Enforcement Enhancement Act would give USDA the ability to impose civil fines against plants that violate food safety regulations. Civil fines serve as a deterrent and can be imposed more quickly than criminal penalties or the withdrawal of inspection. They can be appropriately tailored to the nature and scope of the violation, as well as to the size and type of business.

As USDA moves to the HACCP-based inspection system, more flexible enforcement tools will become even more important. Under HACCP, proper recordkeeping is essential to ensure that plants are complying with food safety regulations. If a plant fails to keep accurate records, criminal penalties or suspension of inspection might be warranted, but, civil fines would often be a more appropriate remedy and will help hold plants accountable.

Food safety problems can also arise outside of federally inspected meat and poultry plants. USDA has only limited enforcement tools. The civil fines proposed in this bill will give USDA an enforcement tool against distributors, transporters, and retailers who do not meet their food safety responsibilities.

Civil Penalties: A Common Tool Among Other Government Agencies

Civil fines are a common tool to enforce Federal laws. The Consumer Product Safety Commission has the ability to fine companies that distribute products in violation of product safety standards. The Federal Aviation Administration has the ability to impose fines for violations of airline safety laws.

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USDA can also impose civil fines in a wide variety of situations. For example, USDA has the authority to fine people who mistreat animals, people who exchange food stamps for cash, and people who fail to keep appropriate records on watermelons. But, USDA does not have this authority for food safety.

Due Process Protection for Industry

The Food Safety Enforcement Enhancement Act provides due process protections for industry, restricting USDA's ability to impose fines until after opportunity for a hearing before an independent administrative law judge. Someone that USDA fines could also appeal to the Federal courts.

HACCP Compliance by Refusing or Withdrawing Inspection

Most plants are committed to producing the safest food possible. Unfortunately, there are some bad actors who persistently violate food safety standards. The Food Safety Enforcement Enhancement Act would reinforce USDA's ability to protect consumers by taking strong action against these companies.

USDA's existing authorities to withdraw or deny inspection have historically been used on a problem-by-problem basis. Under HACCP, USDA will need to take strong action against companies that either willfully or repeatedly fail to operate HACCP systems in compliance with food safety standards. Most plants will successfully implement HACCP systems. But for those few who do not, who either willfully or repeatedly fail to meet the new standards, the Food Safety Enforcement Enhancement Act would reinforce USDA's ability to take effective action to protect American consumers.

Due Process Protection for Industry

The Food Safety Enforcement Enhancement Act provides due process protections. Plant operators have the right to a full hearing before an independent administrative law judge and the right to seek

withdrawing inspection. USDA can, however, deny or suspend inspection prior to the hearing if necessary to protect the public health.

Mandatory Notification and Recall

Mandatory Notification

Mandatory notification will improve food safety because the quicker USDA is notified of potentially contaminated meat and poultry, the quicker American consumers can be protected.

All plants and companies throughout the food processing and distribution system, including restaurants and grocery stores, would be required to notify USDA if they have reason to believe that meat or poultry is contaminated. Household consumers would be specifically exempted from this requirement.

Here is one example why mandatory notification is important. In 1994, a major restaurant chain required the plant that supplied its hamburgers to test for *E. coli* O157:H7. When a hamburger tested positive, the restaurant chain recalled the product. Neither the plant nor the chain notified USDA, however, and other product from the plant continued to be distributed into the market for an additional 2 days before USDA was notified.

Mandatory Recall: An Insurance Policy for American Consumers

USDA does not have the authority to order unsafe meat or poultry from the market. Under current law, all recalls are done on a completely voluntary basis.

For the most part, this voluntary system works. If, however, the system does not function smoothly and without delay in the future, American consumers will be exposed to potentially dangerous meat or poultry. The Food Safety Enforcement Enhancement Act is an insurance policy for American consumers.

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Mandatory Recall Will Fill In the Gaps In the Existing System

About 2,000 plants that produce ground meat fall under USDA's jurisdiction. But about 100,000 retail establishments produce ground meat. Giving USDA the authority to order the recall of suspect ground meat would ensure that such product is recalled from the entire food distribution system.

The Power to Seize and Condemn Product Is Insufficient

In the past, most food was produced and distributed locally. USDA could easily seize and condemn potentially contaminated meat and poultry. Today, meat or poultry produced by one plant can be distributed across the country to hundreds or thousands of distributors, grocery stores, and restaurants. USDA simply does not have the resources or the information to locate, detain, and seize all suspect product in the food distribution system. The power to order a recall, however, will help ensure that this occurs.

Mandatory Recall: A Common Tool Among Other Government Agencies

Suppose a very popular toy turns out to be defective, so defective that it could kill the very children it is meant to please. Fortunately, the Consumer Product Safety Commission has, as it should, the ability to order the toy company to pull the unsafe toy from the market. In cases of dangerous chemicals, the Environmental Protection Agency has, as it should, the authority to order a recall. The Food and Drug Administration has mandatory recall authority for a number of products, including infant formula, but not for food products under its jurisdiction.

But when hamburger is contaminated with deadly *E. coli* O157:H7 bacteria, the Government does not have the authority to remove it from grocery stores.

Several of our major trading partners have mandatory recall authority for meat and poultry. In fact, the majority of our meat and poultry imports are produced under foreign inspection systems with this authority.

Due Process Protection for Industry

The proposed legislation contains due process safeguards for companies. A company can request an informal hearing when USDA issues a recall order. If the company requests the hearing, USDA can only require that the company stop distributing the suspect meat or poultry and notify others to cease its distribution. The meat or poultry would not be recalled until the hearing is held.

Food Safety Initiatives and Accomplishments

This legislation is part of the Administration's farm-to-table food safety strategy. It will ensure that USDA can enforce more effectively the food initiatives undertaken since 1993.

Since 1993, when a major outbreak of foodborne illness attributed to the presence of *E. coli* O157:H7 in ground beef occurred, USDA has focused on a more science-based food safety strategy to reduce the risk of illness. USDA also:

- Began to require safe handling labels for raw meat and poultry products;
- Declared *E. coli* O157:H7 an adulterant in ground beef;
- Began an *E. coli* O157:H7 testing program;
- Announced expansion of food safety research, training, and education and broadening of early warning system for foodborne illnesses through the President's Food Safety Initiative;
- Initiated reviews of FSIS' policy on ground product production practices, and FSIS' meat and poultry recall policy, including public notification procedures.

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P.6/9

Conclusion

Because of an ongoing revolution in food safety, USDA is doing much more to prevent unsafe food from ever reaching consumers. However, the new rules being put in place will work best with the right tools to enforce them. Mandatory notification and recall, civil penalties, and authority to refuse or

withdraw inspection for chronic violators will make it possible for USDA to do the most effective job it can to protect the public health and ensure the safest possible supply of meat and poultry for American consumers.

For More Information...

Congressional Inquiries:

(202) 720-3897

Media Inquiries:

(202) 720-9113

Constituent Inquiries:

(202) 720-9352

Consumer Inquiries:

Call USDA's Meat and Poultry Hotline at
1-800-535-4555; Washington, DC, area,
call (202) 720-3333; TTY: 1-800-256-7072.

FSIS Fast FAX:

1-800-238-8281 or (202) 690-3754

FSIS Web site:

<http://www.usda.gov/fsis>



United States Department of Agriculture
Food Safety and Inspection Service

FAX

To: Mary Smith

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Subject:

Date: 6/30/98

Pages: including this cover sheet.

COMMENTS:

*Food Safety
Recalls*

From the desk of

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1 of 2

COSTCO RECALLS FROZEN GROUND BEEF PATTIES NATIONWIDE FOR E.COLI O157:H7

WASHINGTON, June 29, 1998--Costco Wholesale Corp., an Issiquah, Wash., meat processing firm, is voluntarily recalling about 172,000 pounds of frozen ground beef patties sold at Costco wholesale stores that may be contaminated with *Escherichia coli* O157:H7 bacteria, the U.S. Department of Agriculture's Food Safety and Inspection Service announced today.

All 6-pound packages of the following two products are being recalled: "Kirkland Signature GROUND SIRLOIN and Loin of Beef Patties," Item # 18508 (18 individual 1/3-pound frozen patties) and "Kirkland Signature GROUND BEEF PATTIES," Item # 18498 (24 individual 1/4-pound frozen patties).

Subject to recall are boxes of the Ground Sirloin Patties with the date code "04/07/98 MFG" or "04/06/98 MFG" on the bottom and boxes of the Ground Beef Patties with the date code "04/07/98 MFG" on the bottom. The time in military format precedes the date code. "EST. 18532" appears inside the USDA inspection seal on the product label. No other products are affected by the recall.

The two beef products were distributed exclusively to Costco Wholesale Stores located in 24 states. USDA cautioned that consumers often transport wholesale purchases across state lines. Costco distributed the recalled product to the following 24 states: Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Utah, Vermont, Virginia, and Washington.

"Because of the potential hazard of foodborne disease from consumption of undercooked frozen beef patties contaminated with the *E. coli* O157:H7 bacteria, we urge consumers who may have purchased the suspect product to return it to the place of purchase," said Thomas J. Billy, administrator of USDA's Food Safety and Inspection Service. "USDA is informing the public so consumers who may have purchased and stored this product in their freezers will be sure to check," Billy said.

USDA requested a full-scale recall today after laboratory tests confirmed the presence of *E. coli* O157:H7 in product from a production lot that was linked to an illness reported in New York state.

E. coli O157:H7 is a potentially deadly pathogen that can cause bloody diarrhea and dehydration. The very young, the elderly, and persons with compromised immune systems are the most susceptible to foodborne illness. *E. coli* O157:H7 has been implicated in several recent outbreaks of foodborne illness across the United States.

06/JUN.30.1998 07 7:55PM 202 501 6881

TO:FSIS.ADM

COSTCO
WHOLESALE

Costco Wholesale remains concerned that a list of specific states may cause consumer confusion and believes it better to identify this as a national recall because the product may have been carried over state lines by some consumers who will not be on notice to check their fridges. In any event, Costco Wholesale may have sold the product in question from its warehouses located in the following states:

Alaska
Arizona
California
Colorado
Connecticut
Florida
Georgia
Hawaii
Idaho
Maryland
Massachusetts
Michigan
Montana
Nevada
New Hampshire
New Jersey
New Mexico
New York
Oregon
Pennsylvania
Utah
Vermont
Virginia
Washington

Addendum to Recall Notification Report. Case #019-98

We received the above information and the list of 24 states after sending the initial notification on June 29, 1998.

U. S. Department of Agriculture
Food Safety and Inspection Service
Office of Public Health and Science
Emergency Response Division

009 Lake Drive Longmont, CO 80501