

Comments by
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USDA/FDA Meeting to discuss possible changes to the Regulatory Jurisdiction
of Certain Food Products Containing Meat and Poultry

Chicago, IL
December 15, 2005

National Meat Association, based in Oakland, California, and with members engaged in slaughtering and further processing under the jurisdiction of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), is pleased to have this opportunity to speak to an issue that has been a mystery to many people since the passage of the amendments to the FMIA in 1967. Indeed, the 1979 letter about bagel dog jurisdiction cited in the background in the Notice was written to me as the Executive Director of our predecessor organization, Pacific Coast Meat Association!

I am also pleased to tell you that we are joined in these views by Southwest Meat Association which also has members engaged in slaughtering and further processing under the same federal jurisdiction.

The FMIA provides: “The term “prepared” means slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.” Clearly, the activities of the industry have changed hugely in nearly 40 years, and today’s food safety concerns focus on contaminants that are not visible to the naked eye, most especially pathogens that may continue to grow during normal distribution and under refrigeration. It is therefore appropriate for the two agencies responsible for assuring American consumers that commercially available food products are safe to look once again where they may have overlaps in regulatory authority, with the intent to streamline the requirements. We commend the agencies for recognizing that what we call “amenability” is a subject that needs to be addressed.

We agree with the joint agency working group that a clearer approach to determining jurisdiction is desirable. Unfortunately, the background information in the November 7 Notice does not provide either a scientific or a practical approach with respect to the application and separation of each agency’s jurisdiction. We do not necessarily agree with the working group’s finding that “it makes sense to consider the contribution of the meat ingredient to the product.” Rather, we believe, it makes sense to consider the way in which the meat ingredient is handled in the production of the final consumable product. That is what is important to public health.

NMA is of the opinion that the agencies need to evaluate for each product class, the degree of public health risk that occurs because of the inclusion of a meat or poultry ingredient. Sandwich makers are a good case in point. At present, they are appropriately regulated by FDA with concurrent jurisdictional oversight by state and county public health departments. They are permitted only to use ready-to-eat meat and poultry food products that have been previously inspected and passed under the jurisdiction of the FMIA and PPIA. If a sandwich-maker is using such inspected product, there would seem

to be no basis for making them subject to USDA inspection so we would suggest that they should continue to be subject to FDA oversight. However, a sandwich maker would require a grant of inspection if it is producing its own meat loaf, or roasting beef or turkey to be used as an ingredient in its packaged sandwiches. Indeed, one of NMA's members makes cooked hamburgers under its grant of inspection, but the final placing of the hamburger in a bun and packaging it is under FDA inspection. It does work!

Applying this criterion of merely using previously inspected and passed RTE meat and poultry, some products currently under USDA inspection could appropriately be transferred to FDA. Currently, Bagel Dogs, where the manufacturer is simply wrapping the inspected hot dog in a bagel is not amenable under FMIA; Corn Dogs, where the manufacturer is simply wrapping the inspected corn dog in a corn mixture and cooking in hot oil is considered amenable; Dried Soup, where the manufacturer is simply adding previously dried inspected meat or poultry product with other ingredients to a dried soup mix is amenable based on the amount of meat; Pizza, where the pizza maker is simply adding sliced pepperoni or other sliced meat items on the top of a pizza is amenable, but if there is no sliced meat, it is not amenable; and Sandwiches, where the sandwich maker is simply including meat with other ingredients on (or in) bread or similar component is not amenable. As regards sandwiches, we submit that the presentation of the sandwich should be irrelevant to the issue of amenability. If a product is sold as a sandwich, whether there are one or two slices of bread or whether the meat is placed in the bread or the bread is rolled around the meat should not make a difference from either a food safety perspective or consumer expectation as to which regulatory agency has jurisdiction over the product.

It is important to consider the impact of the current amenability proposal on inspection resources. If the task force recommendation regarding the extension of USDA jurisdiction to sandwich makers were to take effect, it could cause an additional 5,000 to 10,000 processors to come under USDA inspection. This could double the number of establishments presently under USDA inspection and create serious competition for USDA's scarce inspection resources between traditional slaughter and processing establishments and the newly amenable sandwich makers and/or require a very substantial expansion of USDA's inspector numbers and budget needs. NMA does not believe that there is any food safety justification for this very substantial re-ordering of food inspection and food inspector priorities.

In conclusion, it is time for the agencies to undertake a practical assessment of the risk and resource implications if sandwich makers and other firms using previously inspected products are brought under the more resource intensive USDA inspection. It is NMA's position that establishments should only come under USDA jurisdiction where their use of a meat ingredient in their product creates a substantial additional risk, and that the use of previously inspected, cooked meat and poultry products in further processing will seldom, if ever, create such a risk.

Thank you for your attention today to our views.