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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 390

[FDMS Docket Number FSIS–2005–0028]

RIN 0583–AD10

Availability of Lists of Retail Consignees During Meat or Poultry Product Recalls

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to provide that the Agency will make available to the public the names and locations of the retail consignees of meat and poultry products that have been recalled by a federally-inspected meat or poultry establishment if the recalled product has been distributed to the retail level. This rule will apply only where there is a reasonable probability that the use of the recalled product will cause serious adverse health consequences or death (Class I recalls).

FSIS will routinely post this information on its Web site as it compiles the information during its recall verification activities. FSIS is taking this action to provide an additional mechanism for prompting consumers to examine products stored in their refrigerator, freezer, or cupboard when there is a reasonable probability that the product will cause adverse health consequences. The retail consignee information will complement the product identification information that FSIS already makes available and will provide additional opportunities for local media outlets and State and local health officials to transmit more

targeted information about the recall to consumers.

EFFECTIVE DATE: August 18, 2008.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

FSIS is responsible for ensuring that meat and poultry products are safe, wholesome, and accurately labeled. FSIS enforces the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). These two statutes require Federal inspection and provide for Federal regulation of meat and poultry products prepared for distribution in commerce for use as human food. When there is reason to believe that meat or poultry products in commerce are adulterated or misbranded, FSIS requests that the establishment that introduced the products into commerce recall them. If the establishment does not agree to recall the products, FSIS has the authority to detain and seize the products.

When an establishment recalls products, it is responsible for promptly notifying each of its affected consignees about the recall. In general, the recalling establishment conveys the following information to its affected consignees:

- That the product in question is subject to a recall;
- That further distribution or use of any remaining product should cease immediately;
- Where applicable and required as part of the recall strategy, that the direct consignee should in turn notify its consignees that received the product about the recall;
- Instructions regarding what to do with the product; and
- Contact information for questions (e.g., a name and toll-free number).

Affected consignees carry out instructions provided to them by the recalling establishment and, when necessary, extend the recall to their consignees.

FSIS also widely disseminates recall information. For Class I or II recalls, defined in FSIS Directive 8080.1,

Revision 4, Recall of Meat and Poultry Products, dated 5/24/04¹, as those situations where there is a reasonable (Class I) or remote (Class II) probability that the use of the product will cause serious adverse health consequences, FSIS typically issues a press release and distributes recall information to wire services and media outlets in the areas where the product was distributed. FSIS also alerts Congressional delegations and public health partners, such as the Association of Food and Drug Officials, and State departments of health and agriculture, concerning these recalls and posts the recall information on the FSIS Web site. For Class III recalls, defined as those situations where the use of the product will not cause adverse health consequences, FSIS usually does not issue a press release (except in cases of egregious economic adulteration). It distributes a Recall Notification Report (RNR) to the appropriate Federal, State, and local public health and food inspection agencies and posts it on FSIS' Web site.

Through press releases and RNRs, FSIS provides the public with pertinent information about the recalled products. To help consumers identify the product, FSIS provides a description of the food being recalled; any identifying codes, including lot numbers, when available; the reason for the recall; the name and official number of the producing establishment; the types of establishments and facilities to which the recall extends; the availability of product at the retail level; FSIS' classification of the recall; pictures of the product or label, when available; and the appropriate contact persons for FSIS and the recalling company. FSIS lists those States to which recalled product was shipped if fewer than 13 States were involved in the recall. If the recall extends to 13 or more States, it is considered a nationwide recall. To date, FSIS has not publicized the names or locations of the retail consignees that received recalled meat or poultry products, although FSIS has on occasion, identified a store or chain if it was the sole retail outlet for the recalled product.

During the recall process, FSIS obtains from the recalling establishment the names of the known consignees of the recalled product (based on its

¹ <http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/8080.1Rev4.pdf>

