

## food industry lawflash

July 17, 2014

### FSIS Proposes New Recordkeeping Requirements for Ground Beef Processors/Retailers

*The proposal, if adopted, will require new recordkeeping by both processing establishments and retail facilities that grind raw beef products.*

The Food Safety and Inspection Service (FSIS) is scheduled in the next few days to issue a proposed rule that, if adopted, would require both processing establishments and retail facilities that grind raw beef products to maintain records in a newly prescribed format that will delineate source materials and the identity of suppliers as well as any carryover from one production lot to the next. According to FSIS, such a requirement is a necessary public health measure that will assist it and other agencies in their efforts to effectively conduct recalls, particularly in situations where there is evidence of a contaminated product with pathogenic strains of E. coli. The proposal asserts that the absence of such detail, particularly at the retail level, has led to situations where the effective trace back to the source of such contamination has been frustrated.

The proposed regulation would apply to both official processing establishments, where FSIS maintains a continuous inspection presence, and retail-exempt facilities, where it does not. In this latter area, the agency appears to be breaking new ground with such specific regulation in an area that has traditionally been ceded to state and local control. As such, adoption of the rule may establish a broader precedent for the agency to extend its reach into the operational details of the broad universe of facilities that conduct final preparation of meat and poultry products for human consumption without ongoing federal inspection.

The proposed rule also represents a significant new recordkeeping requirement at the retail/grocery level and should be examined closely by such businesses. Submission of comments to FSIS detailing potential recordkeeping burdens and logistical concerns will be important to ensure that the proposal balances practical considerations with the intended food-safety goals.

Comments to the proposal will be accepted by FSIS for 60 days after publication in the *Federal Register*.

View an advance copy of the proposal at <http://content.govdelivery.com/accounts/USFSIS/bulletins/c48fdf>.

#### Contacts

If you have any questions or would like more information on the issues discussed in this LawFlash, please contact any of the following Morgan Lewis lawyers:

#### Washington, D.C.

Robert G. Hibbert  
Anthony "Tony" Pavel  
Kathleen M. Sanzo

+1.202.739.5611  
+1.202.739.5612  
+1.202.739.5209

[rhibbert@morganlewis.com](mailto:rhibbert@morganlewis.com)  
[apavel@morganlewis.com](mailto:apavel@morganlewis.com)  
[ksanzo@morganlewis.com](mailto:ksanzo@morganlewis.com)

#### About Morgan, Lewis & Bockius LLP

Founded in 1873, Morgan Lewis offers more than 1,600 legal professionals—including lawyers, patent agents, benefits advisers, regulatory scientists, and other specialists—in 25 offices across the United States, Europe, Asia, and the Middle East. The firm provides comprehensive litigation, corporate, transactional, regulatory, intellectual property, and labor and employment legal services to clients of all sizes—from globally established

industry leaders to just-conceived start-ups. For more information about Morgan Lewis or its practices, please visit us online at [www.morganlewis.com](http://www.morganlewis.com).

This LawFlash is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered **Attorney Advertising** in some jurisdictions. Please note that the prior results discussed in the material do not guarantee similar outcomes. Links provided from outside sources are subject to expiration or change. © 2014 Morgan, Lewis & Bockius LLP. All Rights Reserved.