



Rosemary Mucklow <rosemary@nmaonline.org >
05/31/2002 03:40:44 PM

Record Type: Record

To: John F. Morrall III/OMB/EOP@EOP
cc:
Subject: Re: comments on Draft Report to Congress

thank you. Here are our comments. the additional time allowed us to focus them on the bigger picture rather than drag case history kind of stuff that would clutter your desk! We hope they are helpful, and we can provide all the back-up documentation that you might ever want or need! We will also send a copy by mail.

Rosemary Mucklow
----- Original Message -----
From: John_F._Morrall_III@omb.eop.gov
To: Rosemary Mucklow
Sent: Thursday, May 30, 2002 10:21 AM
Subject: Re: comments on Draft Report to Congress

Friday will be fine.

(Embedded
image moved Rosemary Mucklow <rosemary@nmaonline.org >
to file: 05/28/2002 03:03:35 PM
pic29297.pcx)

Record Type: Record

To: John F. Morrall III/OMB/EOP@EOP
cc: Phil Olsson <polsson@ofwlaw.com> , John Bode <jbode@ofwlaw.com >
Subject: comments on Draft Report to Congress

I understand that you are out today, but will return tomorrow, eager to evaluate comments on the March 28 Notice. I spoke with Jefferson Hill who suggested I communicate with you. As the Executive Director of National Meat Association, I only became aware of the Notice last week and would like very much to submit

some detailed and specific comments. Unfortunately, because of out of town travel last week, I have not been able to complete them to submit today.

The comments will largely address regulatory issues at USDA, most specifically with respect to the HACCP rule, and other regulatory efforts over the past several years. Our organization joined the litigation, Supreme Beef Processors vs. USDA, over the wrongful Salmonella Performance Standards issue. We were first leading **amici** of five organizations, and on appeal we were accepted by the 5th Circuit as Intervenor, since the company was **by** that time out of business. The 5th Circuit decided in favor of Supreme, and USDA decided earlier this year not to appeal.

May I request to submit our comments to you by no later than Friday this week, and hopefully earlier. We would appreciate your consideration. Thank you

Rosemary **Mucklow**
Executive Director
National Meat Association
1970 Broadway Ste. 825
Oakland, CA 94612
T: 510-763-1533
F: 510-763-6186



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NATIONAL MEAT ASSOCIATION@'

1970 Broadway, Suite 825, Oakland, CA 94612
Ph. (510) 763-1533 or (202) 667-2108 • Fax (510) 763-6186
staff@nmaonline.org • http://www.nmaonline.org

May 31, 2002

John Morrall
Office of Information & Regulatory Affairs
Office of Management & Budget
NEOB Room 10235
725 17th Street NW
Washington, DC 20503

Dear Dr. Morrall:

Re: Draft Report to Congress on the Costs &
Benefits of Federal Regulations
Notice & Request for Comments
Federal Register March 28, 2002

National Meat Association (NMA) represents meat packers and processors throughout the United States. NMA provides regulatory guidance and assistance to an industry which is heavily burdened by regulatory oversight. We are pleased to have this opportunity to provide comment on your Draft Report on the Costs and Benefits of Federal Regulations.

NMA supports the initiatives outlined in your draft report to Congress. OIRA has a strong record of supporting fair and open rule making. The improvements which you propose build on a bipartisan record and consensus built by your predecessors, beginning with Jim Miller and Wendy Gramm, and continuing through with Sally Katzen and John Spotilla.

Specifically, we are pleased by your encouragement of open dialogue between regulatory agencies and persons who are regulated, as well as with consumers, and indeed all Americans, who are the intended beneficiaries of regulation. In this regard, we think that your report should address the role of negotiated rulemaking in the Federal Agency process. In 1995, National Meat Association asked the Secretary of Agriculture, who was one of the Congressional authors of negotiated rulemaking legislation, to use this process in developing new meat inspection controls. NMA's request was denied. Eventually, USDA held a series of six public meetings to receive input on its pathogen reduction and hazard analysis critical control point regulations. However, portions of the final regulations were not based on either the Agency's proposal or the discussions at the public meetings. The result of this failed dialogue was the application of broad new requirements which were substantially and generally supported by our association, but which contained flawed elements which went beyond the Agency's legal authority and eventually led to costly litigation.

Had the principles outlined in your report to Congress been followed, industry, consumers and government would have been able to communicate through the rulemaking process, rather than

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being forced to communicate through federal courts. The failure to follow reasonable and legally mandated rulemaking procedures was costly to all concerned.

Legal uncertainty regarding the scope or application of regulations creates an unquantifiable cost for a regulated company and provides an incentive for the owners of small companies to sell their businesses to larger competitors and to invest their capital in less regulated businesses. In USDA's 1996 Pathogen Reduction HACCP rulemaking, comments from the Department's Office of Risk Assessment and Cost Benefit Analysis (ORACBA) were effectively ignored.

Your report to Congress emphasizes the need to weigh costs and benefits. It is also important to weigh benefits against benefits. In connection with pathogen reduction, there has never been a quantification of the benefits of end-product testing compared with carcass testing and/or the use of various intervention techniques.

Cost benefit analyses should evaluate whether proposed regulations will result in greater industry concentration and should quantify the economic and social costs that are likely. In this regard, the National Meat Association has previously asked the Department of Agriculture to institute a Concentration Watch to measure the impact of regulations as they are implemented. However, that request was never accepted. Perhaps it is an appropriate function for OIRA.

Finally, it is important to measure the absolute value of benefits. For example, in efforts to control pathogens, regulatory analysis needs to focus on where those pathogens originate and where they are most controllable, whether that be on the farm, in the processing plant, or during food handling in a restaurant or at home. The economic benefits of a control program which only focuses on one sector are questionable unless equally effective controls can be maintained at each level. The economic resources available for regulation and control should be targeted to those points where controls can be most effective.

National Meat Association commends and supports the initiatives identified in OIRA's report to Congress. We trust these comments are helpful.

Sincerely,

Rosemary Mucklow
Executive Director