

Council of State and Territorial Epidemiologists  
Position Statement

**04-ID-02**

**Committee:** Infectious Diseases

**Title:** Disclosing Food Distribution Information to Protect the Public Health

**Statement of the Problem:**

Foodborne diseases in the United States cause an estimated 76 million human illnesses, 325,000 hospitalizations, and 5000 deaths annually. Many foodborne diseases and outbreaks are caused by contaminated commercial foods distributed widely such as ground beef contaminated with *E.coli* O157:H7 and alfalfa sprouts contaminated with *Salmonella*. Investigations of such outbreaks or diseases have usually required the collaborative participation by local, state, and federal public health and food safety agencies including the US Centers for Disease Control and Prevention (CDC), the US Department of Agriculture (USDA), and the US Food and Drug Administration (FDA). Many such collaboration have been successful in determining the causes and underlying mechanisms of such outbreaks which led to the prevention of additional cases and deaths.

However, in some recent outbreaks or situations where a food vehicle was implicated or microbiologically confirmed, the USDA or FDA had access to information of the distribution and occasionally of the source of the implicated/contaminated food that the agency “could not” share with public health agencies including CDC. This withholding of critical information meant that some important public health actions could not be implemented, actions such as alerting consumers to dispose of recalled product that was already purchased and in refrigerators or freezers, or enhancing surveillance for human illnesses in the areas where such food product was distributed. Reportedly, the primary reason that the USDA and FDA could not share such information was that such information was “proprietary” and the agencies were “legally bound” to protect industries in not releasing such proprietary information. To address this issue, USDA recently offered state agencies the opportunity to sign a “Memorandum of Understanding (MOU)” that would allow USDA to share food distribution information with the signatories but would still restrict the signatories from releasing such information further. Some state agencies signed on to this but many others did not. The main concern of some of those who refused to sign this agreement was that signing it could impede state and local public health agencies from carrying out all necessary actions to protect the public health.

A recent example that received much media attention was that of a cow with bovine spongiform encephalopathy (BSE) or “mad cow disease” identified in the US and confirmed in the UK. Meat and products from this cow were distributed to several western states including California, a state that had signed the above- mentioned MOU with USDA. USDA implemented a recall but did not share the information with California until days later. The California Department of Health Services had difficulty trying to work with its local public health agencies, and the local agencies had difficulties implementing appropriate public health actions given the restrictions of the MOU. Eventually, with the approval of the involved retail markets to be named in press releases, several counties were able to let the public know of the markets selling these products so that they could return or dispose of those products. But no press release was issued on which restaurants were among the retail destinations of potentially contaminated beef. While the risk of BSE is said to be extraordinarily low, the uproar from the California public was reflected in the media and on the editorial pages for many days and weeks thereafter, berating and criticizing the USDA as well as the MOU.

**Statement of the Desired Actions to be Taken:**

1. USDA and FDA should change their policy to disclose food distribution “end points” or “points of sales” information to local, state, territorial and federal public health agencies when such foods have been found to be contaminated or implicated in human illnesses

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and deaths, so that all necessary public health actions can be implemented to prevent additional illnesses and deaths.

2. USDA and FDA should share, in a timely manner, reports of their foodborne outbreak investigations with state and territorial public health agencies and CDC.
3. ASTHO in cooperation with CDC, NAACHO and CSTE should convene a formal process to produce a formal written report with recommendations for state health officials about food safety notifications and public health responsibilities including:
  - a) Whether the Commissioning of state agencies by USDA provides sufficient protection for public health actions in food safety responsibilities. To be included in this discussion will be the consideration of whether States and Territories may opt out of any MOU with USDA or FDA that restricts taking all necessary actions to protect the public health.
  - b) Whether States and Territories should consider state/territorial legislation to require businesses distributing foods in their jurisdiction to immediately report any food recalls or contaminations to state and territorial health departments so that necessary public health actions can be taken.

**Public Health Impact:**

When a contaminated or implicated food product causing human illnesses or deaths are found, rapid disclosure of the distribution information of such a product with local, state, territorial and federal public health agencies will assist with carrying out timely and necessary public health actions that include:

1. Alerting the local public in areas where this product was distributed so that they can dispose of or return the product; and, if the product were already consumed, to self monitor for symptoms and consult their doctor, if needed
2. Providing information on treatment and other aspects of disease to the local public in areas where this product was distributed
3. Enhancing surveillance for human illnesses and deaths in areas where this product was distributed
4. Following up at points of sales to assure compliance with recall efforts
5. Collecting additional product samples for testing or confirmation.

**Coordination:**

**Agencies for Response:**

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