

Report: Nestle Refused to Turn Over Documents to FDA

June 26, 2009

Inspection reports from a Nestle USA cookie dough factory released Friday show the company refused several times to provide Food and Drug Administration inspectors with complaint logs, pest-control records and other information.

The records, which date back to 2004, were made public after Nestle's Toll House refrigerated, prepackaged cookie dough was discovered to be the likely culprit in an E. coli outbreak that has sickened 69 people in 29 states, according to the latest estimates from the federal Centers for Disease Control. The CDC is investigating the outbreak along with the FDA.

Nestle voluntarily recalled all Toll House refrigerated cookie dough products made at the Danville, Va., factory late last week after the FDA informed the company it suspected consumers may have been exposed to E. coli bacteria after eating the dough raw.

According to the reports released by the FDA, the company refused to allow FDA investigators access to certain documents in at least 2004, 2005, 2006 and 2007.

FDA spokeswoman Stephanie Kwisnek said the Glendale, Calif.-based unit of Switzerland-based Nestle SA had the right to do so.

"Companies have the right to make conditions on what they will or will not permit during an inspection," she said. "Some companies have a policy that they outline for the investigator at the beginning of an inspection."

However, the FDA can force a company to comply if public health is at stake.

Kwisnek said, for example, if a company refuses to allow the FDA to take pictures inside the plant but the investigator feels it's a need for public health that the FDA takes photos, the agency can get an administrative warrant to make the company comply.

In a statement, Nestle said it rejects any implication that it did not cooperate with the FDA and said it provided all information required under law, adding that its practices are standard within the food industry.

"Nestle always fully cooperates with the regulatory authorities wherever it operates, and Nestle is fully cooperating with the Food and Drug Administration at our Danville, Virginia plant in this matter," the company said.

In the most recent inspection report, dated March 12, 2009, the FDA found no unsanitary conditions and no refusals were documented by the inspector.

The FDA conducted two inspections in 2007. The first in February detailed six minor issues, including tools and equipment being stored in a handwashing sink in the Toll House preparation area, a water leak from the same sink and a hole in a steam line.

In November, the FDA returned to the facility to check to see if those issues had been corrected. During that inspection, the company refused to allow inspectors to photograph anything and also did not allow any review of production records or complaint files as per the company's policy.

In 2006, Nestle again did not allow the FDA inspector to use a camera and did not allow access to a complaint log, pest control records or information on an environmental testing program.

During that inspection, the FDA found three live "ant-like" insects on a ledge along a wall by a powdered sugar station in the cookie dough manufacturing area, dirty stainless steel equipment in a bin that was identified as clean and water dripping from an overhead line. The company told the FDA inspector it had called its extermination company and said the other issues would be corrected immediately.

No issues were found in the 2004 or 2005 inspections.

Besides the Toll House products, Nestle also makes a variety of refrigerated pastas and pasta sauces at the plant.

The FDA is still investigating the latest outbreak at the plant. Nestle said in its statement that no E. coli has been found in the plant or in any Nestle product to date.