



Consumer Federation of America

July 14, 2010

Docket Clerk
U.S Department of Agriculture, FSIS
Room 2-2127
George Washington Carver Center
5601 Sunnyside Avenue
Mailstop 5474
Beltsville, MD 20705-5474

Re: Docket No. FSIS 2009-0034

To Whom It May Concern:

The Consumer Federation of America (CFA) appreciates the opportunity to comment on the Food and Safety and Inspection Service's (FSIS) Federal Register notice regarding New Performance Standards for Salmonella and Campylobacter in Young Chicken and Turkey Slaughter Establishments (**Docket No. FSIS 2009-0034**).

CFA is a non-profit association of some 280 organizations, with a combined membership of over 50 million Americans. Member organizations include local, state, and national consumer advocacy groups, senior citizen associations, consumer cooperatives, trade unions and food safety organizations. Since its founding in 1968, CFA has worked to advance the interest of American consumers through research, education and advocacy. CFA's Food Policy Institute was created in 1999 and engages in research, education and advocacy on food and agricultural policy, agricultural biotechnology, food safety and nutrition.

CFA strongly supports efforts to reduce pathogen contamination in meat and poultry products. Performance standards are an important tool to provide the industry and the federal government with measurable goals for reducing pathogen levels. FSIS' proposed performance standards for Salmonella and Campylobacter in young chicken and turkey are a welcome step towards reducing the impact of these pathogens on human health.

Progress on Reducing Salmonella and Campylobacter Illnesses has Stalled

Reducing disease from Salmonella and Campylobacter is a critical public health goal. According to the Centers for Disease Control and Prevention (CDC), approximately 40,000 cases of salmonellosis are reported in the United States each year. Raw or undercooked poultry is a frequent source of Salmonella illnesses. However, the U.S. has

made almost no progress in reducing illnesses from Salmonella in the past decade. The incidence of Salmonella infections has remained well over twice the National Health Objective of 6.8 cases per 100,000 since 2000. In 2009, the incidence of Salmonellosis was 15.19 cases per 100,000.

According to the CDC, Campylobacter is the most common bacteria cause of diarrhea in the United States with over 2 million estimated cases each year. The vast majority of cases occur as isolated, sporadic events, not as part of recognized outbreaks. Campylobacter infections are most closely associated with eating raw or undercooked poultry or from cross-contamination of other foods by uncooked poultry products. In 2007, the FDA-NARMS Retail Food program found Campylobacter on 49.9% of raw chicken breasts tested¹. In January 2010 Consumer Reports magazine published a study of fresh, whole broilers bought in 22 states². The study revealed that Campylobacter was in 62 percent of the chickens tested and Salmonella was in 14 percent. Both bacteria were in 9 percent of chickens tested. The test showed a modest improvement since January 2007, when the magazine found these pathogens in 8 of 10 broilers, but the numbers are still far too high. Like Salmonella, there has been almost no progress in reducing Campylobacter infections in the U.S. since 2002. The incidence of campylobacteriosis in 2009 was 13.02 cases per 100,000; still above the National Health Objective of 12.3 cases per 100,000 and at its highest level since 2001.

FSIS Must Regularly Update Performance Standards

The 1996 HACCP rule required companies to demonstrate process control by meeting performance standards for generic *E. coli* and for Salmonella. The performance standards set at the time were not based on public health data, but on industry's capacity to control these indicators of fecal contamination. USDA claimed the system would spur continuous improvement because new baseline studies would be performed regularly and the standard would be raised to reflect the industry's increasing capacity to control contamination and pathogens.

The Salmonella standards being established are a first step in what FSIS expects to be a broader reliance in the future on pathogen-specific performance standards for raw products. FSIS plans to repeat its baseline surveys and collect substantial data through other means and, on that basis, adjust the Salmonella targets and possibly set targets for additional pathogens, as appropriate³.

That was fourteen years ago, and until this most recent proposed rule, no new performance standards had been developed. The lengthy delay in developing new performance standards has resulted in numerous missed opportunities to reduce pathogen

¹NARMS Retail Meat Annual Report, 2007, <http://www.fda.gov/downloads/AnimalVeterinary/SafetyHealth/AntimicrobialResistance/NationalAntimicrobialResistanceMonitoringSystem/UCM165040.pdf>

² Consumer Reports magazine, January 2010, <http://www.consumerreports.org/cro/magazine-archive/2010/january/food/chicken-safety/overview/chicken-safety-ov.htm>

³ Food Safety and Inspection Service, "The Final Rule on Pathogen Reduction and Hazard Analysis and Critical Control Point (HACCP) Systems." July 1996, <http://www.fsis.usda.gov/OA/background/finalrul.htm>

contamination in raw poultry products so that consumers have continued to remain at risk of illness from Salmonella and Campylobacter. While the new Salmonella standard is a long-overdue update, a performance standard for Campylobacter has never existed; the proposed standard is brand new for that pathogen.

In its proposed rule, FSIS states that the agency “intends to conduct more frequent baseline studies, at intervals not greater than every four years, and to make appropriate adjustments to these performance standards based on the results of the studies.” CFA strongly supports this approach and encourages the agency to follow through on its stated intention by dedicating adequate resources including funding, time and personnel to conduct baseline studies and update performance standards on at least a four-year interval.

FSIS Should Continue to Publish Poor Performing Plants

FSIS indicates in the proposed rule that the agency intends to continue publishing on its website Category 2 and 3 establishments based on the performance standard for Salmonella. CFA continues to support this action. Posting the set results from Category 2 and 3 establishments by establishment name and number can help provide the necessary incentive for plants in those categories to increase process control efforts through the threat of public scrutiny. FSIS should adopt the same policy based on the performance standard for Campylobacter. The threat of public scrutiny could have considerable benefits in pushing establishments to develop effective process controls for controlling Campylobacter. This is particularly important since controlling Salmonella does not assure that Campylobacter will be controlled.⁴

FSIS Misuses Verification Data to Suggest Prevalence in Calculating Public Health Impact

In its companion document to the new performance standards, *Potential Public Health Impact of Salmonella and Campylobacter Performance Guidance for Young Chickens and Turkeys*, FSIS attempts to estimate the public health impact of its new performance standards⁵. To do so it develops a formula with coefficients which represent the “prevalence of contaminated carcasses among all slaughter establishments that would pass or fail the guidance, respectively.”

In describing the input values for these coefficients, FSIS indicates that data was determined from the Young Chicken Survey and the Young Turkey Survey, both elements of FSIS’ Nationwide Microbiological Baseline Data Collection Programs. For the Campylobacter guidance, these baseline data were used exclusively. For the Salmonella guidance, however, FSIS says that “final estimates were based on the more current Salmonella verification program data...because average Salmonella prevalence

⁴ Newell, Diane and Wagenaar, Jaap, Poultry Infections and Their Control at the Farm Level, in *Campylobacter*, 2nd Ed., 2000 American Society for Microbiology, Washington, D.C., Murphy, C., Carroll, C. and Jordan, K, Environmental Survival Mechanisms of the Foodborne Pathogen *Campylobacter jejuni*, *Journal of Applied Microbiology* 100, (2006) 623-32

⁵http://www.fsis.usda.gov/PDF/Potential_Public_Health_Impact_Salmonella_Campylobacter%20Performance%20Guidance_Chickens_Turkeys.pdf

among young chicken carcasses has decreased since the collection of the baseline data in 2007-2008.” FSIS suggests that “using the HACCP data as the starting point for examining the effect of the policy should help prevent the overestimation of the potential public health benefit.” Further, the agency says that it assumes “that testing data from the YCBS, YTBS and **Salmonella verification program data are representative of current and future industry performance.**” (emphasis added)

The Office of Inspector General (OIG), USDA Office of the Chief Economist, the National Advisory Committee on Microbiological Criteria for Foods, members of Congress and consumer groups have repeatedly told FSIS that it is inappropriate to use regulatory data to determine prevalence of pathogens in the meat and poultry supply. FSIS’ *Salmonella* microbiological testing program is strictly regulatory and was not statistically designed to estimate the prevalence of *Salmonella* in raw poultry. Different establishments are sampled each year. The data represent only what happened in one plant on one day—the day the tests were taken. Further, FSIS acknowledges that the methodology used to select establishments and to conduct the microbial testing have changed multiple times over the years. As a result, it is inappropriate to make year-to-year comparisons and the data cannot be interpreted to represent a trend or prevalence. FSIS must stop insisting that its regulatory sampling program provides any indication of prevalence and develop and implement a strategic plan to collect new, additional data in order to make these types of comparisons.

Finally, in its Discussion section, FSIS states that “it is likely that modifications to production practices that reduce levels of one pathogen would also reduce levels of the other.” The agency presents no data to support that assertion. CFA is not aware of scientific agreement on that point; in fact, several studies have suggested the opposite. For the purpose of its analysis the agency did assume that the separate performance standards would have independent effects on public health. But the agency should avoid general statements that are not grounded in science such as the one quoted.

FSIS Should Develop Public Health Based Performance Standards

The current *Salmonella* performance standard is not a public health based standard but is a reflection of the industry’s capacity to control *Salmonella* fourteen years ago. It is an industry performance based standard, a reflection of industry’s ability to control process. The HACCP regulation established the *Salmonella* standard at a number half of what the industry was able to achieve. There were no data then or now to relate the performance standard to a public health objective. The new *Salmonella* standard is still a reflection of industry’s ability to control its process; the standard is based on the level of performance industry can presently achieve. FSIS must begin to move towards a more public health oriented model. The agency should design a plan to develop, and collect the necessary data to support, performance standards that are based on achieving specific public health objectives. This would require a change in FSIS approach as they agency would first determine the public health objective to be obtained and then specify the appropriate standards to reach that objective.

FSIS Must Have Specific Authority to Set and Enforce Performance Standards

FSIS has no specific authority to establish and enforce performance standards that assure the HACCP programs will result in products that meet a public health standard. The U.S. Court of Appeals specifically ruled in *Supreme Beef, Inc. vs. USDA* that FSIS does not have authority to close permanently a plant that fails to meet performance standards for pathogen reduction.

FSIS now addresses the failure of plants to meet Salmonella or *E. coli* O157:H7 standards by sending in staff to conduct Food Safety Assessments. This staff is in addition to the inspection staff already in the plant. The result is taxpayer money spent to support expensive efforts by FSIS to provide technical assistance to meat and poultry plants that are unable or unwilling to meet the current standards. Taxpayer dollars should not continue to subsidize the operation of these poor performing plants. Instead, FSIS should seek and Congress should provide the agency with the specific authority to enforce its performance standards so the standards can truly benefit the public health.

Thank you for the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink that reads "Chris Waldrop". The signature is written in a cursive, flowing style.

Chris Waldrop
Director, Food Policy Institute