



## Consumer Federation of America

June 19, 2017

Docket Clerk  
U.S. Department of Agriculture  
Food Safety and Inspection Service (FSIS)  
Patriots Plaza 3, 355 E St SW  
8-163A, Mailstop 3782  
Washington, DC 20250-3700

RE: Docket No. FSIS–2017-0014

Dear Acting Administrator Almanza,

The Consumer Federation of America (CFA) appreciates the opportunity to comment on the Food Safety and Inspection Service's (FSIS) Renewal of Approved Information Collection regarding Modernization of Poultry Slaughter Inspection (Docket No. FSIS–2017-0014). We write to reiterate our concern that the New Poultry Inspection System (NPIS) compromises food safety, and to urge FSIS to undertake a more rigorous analysis of the impacts of NPIS. More specifically, we write to request that FSIS collect the data necessary to produce a credible, 'apples-to-apples' comparison of NPIS and other inspection systems; verify the theoretical claims FSIS made in support of the NPIS final rule; and give the public access to sufficient information to evaluate those claims.

NPIS differs from traditional inspection by shifting inspection responsibility from FSIS officers to plant employees. Under NPIS, plant employees are responsible for sorting and removing unacceptable carcasses while FSIS inspectors conduct more offline activities, such as records inspection. FSIS claimed that the new system would lead to dramatic food safety improvements, preventing up to 5,000 food borne illnesses per year.<sup>1</sup> However, nearly three years since publication of the final rule, FSIS has yet to present any analyses to the public that would validate this public health claim, nor does FSIS have any plans to perform such analyses that we are aware of.

Meat and poultry inspection policy must be grounded in a solid empirical foundation. According to the Center for Disease Control and Prevention (CDC), each year roughly 1 in 6 Americans (or 48 million people) gets sick, 128,000 are hospitalized, and 3,000 die of foodborne diseases. For survivors, foodborne illness may mark the onset of long term health conditions

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<sup>1</sup> 79 Fed. Reg. 49566 (August 21, 2014).

including paralysis, mental illness diabetes and kidney failure.<sup>2</sup> *Salmonella*, the leading food borne illness killer, causes 1.2 million illnesses and 450 deaths per year,<sup>3</sup> and *Campylobacter*, another pathogen commonly found in poultry, causes 2.4 million illnesses per year and 76 deaths.<sup>4</sup> Clearly, much work remains to be done in protecting American consumers from foodborne illness. To contribute to better protection, FSIS should collect information to accurately measure how reforms like NPIS are performing relative to other systems.

### **NPIS has proceeded without a sufficient evidentiary basis**

NPIS grew out of a pilot program that FSIS developed in 1997; the Hazard Analysis Critical Control Points Based (HACCP) Inspection Models Project (HIMP). The HIMP pilot involved twenty five self-selected poultry plants, eleven of which participated in the full study. Like NPIS, HIMP assigned plant employees, rather than federal inspectors, responsibility for examining each carcass and making determinations about whether the product was acceptable or should be removed from the slaughter line.<sup>5</sup>

Although FSIS intended for the HIMP pilot to support more far-reaching reforms, a 2001 Government Accountability Office (GAO) study found that the data collected up to that point from the pilot could not support the conclusion that it improved food safety.<sup>6</sup> The small number of plants, and the fact that they self-selected rather than being chosen at random, hampered generalizations to all poultry establishments. More troubling, GAO found that what little evidence was available indicated that food safety actually deteriorated during the pilot. During the pilot, not one of the plants met all performance standards set by FSIS, only one met the zero tolerance standards for fecal matter, and five of the eleven plants' control of *Salmonella* contamination and ability to meet performance standards declined under pilot inspection as compared to traditional inspection.<sup>7</sup>

FSIS continued to oversee the HIMP pilot program over the next decade. In 2011, it concluded that HIMP had improved food safety at 20 young chicken plants, and moved forward with a proposed rule in January 2012 to modernize poultry slaughter inspections based, in part, on the pilot program. Yet in 2013, when GAO released another report on HIMP, it concluded that FSIS still "has not thoroughly evaluated the performance of each of the pilot projects over time even though the agency stated it would do so when it announced the pilot projects."<sup>8</sup> According to

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<sup>2</sup> See, e.g. Batz MB, Henke E, Kowalczyk B. (2013) "Long-term consequences of foodborne infections." *Infect Dis Clin North Am* 27(3):599-616; Buzby, J.C., and Roberts, T. (1997). "Guillain-Barré Syndrome increases foodborne disease costs," *FoodReview*, Washington, DC: US Department of Agriculture, Economic Research Service, 20 (3), pp. 36-42.

<sup>3</sup> See CDC. "Salmonella Fact Sheet" available at. <https://www.cdc.gov/salmonella/pdf/CDC-Salmonella-Factsheet.pdf>

<sup>4</sup> See CDC. Incidence and Trends of Infection with Pathogens Transmitted through Food. available at. [https://www.cdc.gov/mmwr/volumes/66/wr/mm6615a1.htm?s\\_cid=mm6615a1\\_w](https://www.cdc.gov/mmwr/volumes/66/wr/mm6615a1.htm?s_cid=mm6615a1_w)

<sup>5</sup> See U.S Government Accountability Office, "Food Safety: Weaknesses in Meat and Poultry Inspection Pilot Should Be Addressed Before Implementation." GAO- 02-59, (Dec. 2001) available at. <http://www.gao.gov/new.items/d0259.pdf>

<sup>6</sup> Id. at 25.

<sup>7</sup> Id. at 31-32.

<sup>8</sup> U.S Government Accountability Office, "More Disclosure and Data Needed to Clarify Impact of Changes to Poultry and Hog Inspections." GAO-13-775, (Aug. 2013), available at. <http://www.gao.gov/assets/660/657144.pdf>

GAO, “FSIS’ conclusion about the pilot project was based, in part, on comparisons of data that were not designed to be comparable,” and despite collecting “more than a decade’s worth of data on the extent to which young chicken plants in the pilot project were meeting” food safety standards, FSIS “based its conclusion about the performance of the pilot project on the use of snapshots of data from the pilot project for two 2-year periods.”<sup>9</sup> Despite this weak evidentiary basis, FSIS issued its final rule on NPIS in October 2014.

### **Uniform measurement and transparency are critical to controlling foodborne pathogens**

Three years after the final NPIS rule, FSIS still has not presented data or an analysis showing how NPIS stacks up to alternative inspection regimes. Since NPIS is optional, many plants continue to operate under one of several preexisting inspection regimes: The Streamlined Inspection System (SIS), the New Line Speed Inspection System (NELS), the New Turkey Inspection System (NTIS), or Traditional Inspection. Now, with NPIS underway in some 56 establishments,<sup>10</sup> FSIS has the opportunity to take advantage of this natural experiment to verify whether reduced contamination has actually come to pass. The agency could start by analyzing how the NPIS facilities’ microbiological samples compare with those of similar establishments under alternative systems. To date, FSIS has not explained why it has not undertaken such an analysis and shared it with the public. We urge the agency to do so as soon as possible.

When FSIS compares microbiological data from NPIS plants, it should consider the effect of antimicrobial sprays on test results, and explore ways of controlling for those effects. In March 2016, the USDA Agricultural Research Service (ARS) confirmed that certain antimicrobial sanitizers were interfering with testing for *Salmonella*, and potentially causing a large number of “false negative” test results.<sup>11</sup> A later ARS study reports that a new buffered peptone water solution, “nBPW,” adequately mitigates the interference of antimicrobials,<sup>12</sup> and suggests that the problem has been adequately addressed by FSIS’ decision to mandate the use of the nBPW solution in all *Salmonella* testing carried out by inspectors on young chicken and turkey carcasses.<sup>13</sup> Nevertheless, researchers at Texas A&M University have recently cast doubt on the efficacy of nBPW in counteracting the carryover effects of at least one commonly used antimicrobial spray, cetylpyridinium chloride (“CPC”).<sup>14</sup> In light of this uncertainty, FSIS should collect data on establishments’ antimicrobial usage and attempt to control for whether a plant was using antimicrobials, and particularly CPC, when it compares *Salmonella* testing results.

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<sup>9</sup> *Id.* at 12.

<sup>10</sup> Responses to FSIS-SFC meeting (May 22, 2017).

<sup>11</sup> See ARS: Pathogen Reduction and Processing Parameters in Poultry Processing Systems. *available at* <https://ars.usda.gov/research/publications/publication/?seqNo115=326058>

<sup>12</sup> Gary R. Gamble et al. *Neutralization of Bactericidal Activity Related to Antimicrobial Carryover in Broiler Carcass Rinse Samples*, *Journal of Food Protection*, Vol. 80, No. 4 (March 17, 2017).

<sup>13</sup> FSIS Notice 41-16 (6/8/16), *available at* <https://www.fsis.usda.gov/wps/wcm/connect/2cb982e0-625c-483f-9f50-6f24bc660f33/41-16.pdf?MOD=AJPERES>

<sup>14</sup> See Matthew Taylor, Christine Alvarado and Jennifer Vuia-Riser. “How to neutralize antimicrobials for food safety performance standards.” published (June 19, 2017) on *Meatingplace*, <http://www.meatingplace.com/Industry/TechnicalArticles/Details/68633>

Finally, FSIS should leverage the public's and private firms' engagement in improving food safety by making available and accessible as much information as possible. A recent USDA Economic Research Service (ERS) study confirmed that public disclosure of food safety performance correlated with reductions in *Salmonella* contamination in poultry.<sup>15</sup> During 2005-14, the share of samples of broilers testing positive for *Salmonella* dropped substantially. The sharpest decline was from 2006 to 2007 (4.5 percent) immediately after FSIS adopted a metric for chicken plant performance (Category 1, 2 or 3) and posted plant compliance ratings on the agency website.<sup>16</sup> Reliable information allowed retailers, restaurants, private buyers and large commercial buyers to seek out better performing plants. This market pressure in turn encouraged establishments across the board to improve food safety in order to compete. A more transparent food system is a safer food system and this axiom applies to NPIS as well.

### **Conclusion**

Consumer Federation of America appreciates the opportunity to submit these comments and looks forward to continuing our work with FSIS and the Department's other agencies to protect consumers from foodborne illnesses.

Sincerely,

Thomas Gremillion  
Director, Food Policy Institute  
Consumer Federation of America

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<sup>15</sup> 79 Fed. Reg. 49574 (August 21, 2014).

<sup>16</sup> ERS Study. Public Disclosure of Tests for Salmonella: The Effects on Food Safety Performance in Chicken Slaughter Establishments. *available at*. <https://www.ers.usda.gov/publications/pub-details/?pubid=83660>