



## Consumer Federation of America

October 15, 2020

Dr. Mindy M. Brashears  
Under Secretary for Food Safety  
Food Safety and Inspection Service  
U.S. Department of Agriculture

*SUBMITTED VIA REGULATIONS.GOV*

### **RE: Salmonella-State of the Science Public Meeting; FSIS Roadmap to Reducing Salmonella**

Dear Under Secretary Brashears:

The Consumer Federation of America (CFA) appreciates the opportunity to comment on the September 22, 2020 Food Safety Inspection Service Public Meeting (FSIS) “Salmonella-State of the Science” and the agency’s “Roadmap to Reducing Salmonella.” CFA is an association of non-profit consumer organizations, established in 1968 to advance the consumer interest through research, advocacy, and education. We support FSIS’s efforts to gather information about strategies to reduce the significant public health burden associated with *Salmonella*, including through public meetings. The country’s stalled progress on reducing salmonellosis demands bold action, far beyond the measures included in the agency’s “Roadmap,” and we look forward to working with FSIS towards a more effective food safety policy.

*Salmonella* is the most costly foodborne pathogen, according to USDA’s Economic Research Service (ERS), causing more hospitalizations and deaths than any other microbiological pathogen in the U.S. food supply. Each year, *Salmonella* causes an estimated 1.35 million illnesses, 26,500 hospitalizations, and 420 deaths in the United States,<sup>1</sup> at an estimated cost of \$3.7 billion in medical bills alone.<sup>2</sup> Unfortunately, the burden on consumers shows no signs of letting up. According to Foodborne Diseases Active Surveillance Network (FoodNet), the incidence of salmonellosis was 14.46 cases per 100,000 people in 1996 across FoodNet sites. As of 2019, it was 17.12.<sup>3</sup> New culture-independent diagnostic testing (CIDTs) may account for some of the increase, but CDC researchers have made clear that “identification of infections that might not have been detected

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<sup>1</sup> See Centers for Disease Control and Prevention. “Salmonella,” <https://www.cdc.gov/salmonella/index.html>

<sup>2</sup> USDA Economic Research Service. Cost Estimates of Foodborne Illnesses, Cost of foodborne illness estimates for Salmonella (non-typhoidal) (10/7/2014), <https://www.ers.usda.gov/data-products/cost-estimates-of-foodborne-illnesses.aspx#48498>

<sup>3</sup> See FoodNet Fast. <https://wwwn.cdc.gov/foodnetfast/>

before adoption of CIDTs cannot explain this overall lack of progress.”<sup>4</sup> CDC researchers further estimate that for every reported case of *Salmonella* infection, another 29 go unreported.<sup>5</sup> Foods regulated by FSIS substantially contribute to this public health burden. According to the Interagency Food Safety Analytics Collaboration, over a third of salmonellosis cases can be attributed to chicken (14.0%), pork (10.3%), beef (6.4%), and turkey (6.2%).

FSIS has sought to reduce *Salmonella* contamination in these products by asking companies to devise their own plans to reduce food safety risks, and by testing some categories of products to evaluate whether they meet performance standards for all variants of *Salmonella*. There are at least three problems with the current inspection model: 1) the standards do not sufficiently target the specific types of *Salmonella* that cause illness; 2) compliance with the standards is not enforced by FSIS; and 3) standards are not in force for pork and beef.

Designing *Salmonella* performance standards to more closely align with the goal of reducing foodborne illness is fundamental to improving food safety. Currently, *Salmonella* performance standards measure how well an establishment is reducing the frequency with which its products test positive for contamination by any *Salmonella* bacteria species. FSIS verification testing may identify virulent strains of *Salmonella* that are linked to currently ongoing outbreaks, but the product nevertheless can go into commerce so long as the establishment has a sufficient number of “negative” samples and is otherwise meeting the rules designed to show that its plant conditions are not “insanitary.” This indirect approach is not working. To protect the public, FSIS needs to determine what *Salmonella*-contaminated products pose an unacceptable risk to consumers, and make rules to keep those adulterated products off the shelves. In 2018, CFA issued a white paper entitled “Taking *Salmonella* Seriously,” which discusses five approaches for treating *Salmonella* contaminated food as adulterated, any of which would improve upon the current system.<sup>6</sup>

Second, whatever standard that FSIS develops, it must enforce it. FSIS has cited a 2001 federal appeals court decision, *Supreme Beef Processors, Inc. v. U.S. Dept. of Agriculture*,<sup>7</sup> to defend its current policy.<sup>8</sup> For nearly two decades, when an establishment fails to meet *Salmonella* performance standards, FSIS has responded by deploying additional inspectors and testing, and conducting a “Food Safety Assessment” at the plant, over and over again if necessary, all at taxpayer expense. Poor performing plants are not shut down if they fail to comply, and the results are predictably terrible. As explained in “Taking *Salmonella* Seriously,” however, the *Supreme Beef* decision need not

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<sup>4</sup> Danielle M Tack, et al, “Preliminary Incidence and Trends of Infections with Pathogens Transmitted Commonly Through Food — Foodborne Diseases Active Surveillance Network, 10cU.S. Sites, 2016–2019.” MMWR Vol 69, No. 17, May 1, 2020.

<sup>5</sup> Foodborne illness acquired in the United States—major pathogens. Scallan E, Hoekstra RM, Angulo FJ, Tauxe RV, Widdowson MA, Roy SL, Jones JL, Griffin PM Emerg Infect Dis. 2011 Jan; 17(1):7-15.

<sup>6</sup> See Thomas Gremillion, “Taking *Salmonella* Seriously: Policies to Protect Public Health Under Current Law,” (Nov. 27, 2018), available at: <https://consumerfed.org/wp-content/uploads/2018/11/taking-salmonella-seriously-policies-to-protect-public-health-under-current-law.pdf>

<sup>7</sup> 275 F.3d 432, 440 (5th Cir. 2001).

<sup>8</sup> See, e.g., FSIS. “Modernization of Swine Slaughter Inspection” 83 Fed. Reg.4780, 4786 (Feb. 1, 2018) <https://www.federalregister.gov/d/2018-01256/p-113> (explaining that failure to meet *Salmonella* performance standards serves only “as a basis to conduct an in-depth evaluation of the establishment’s HACCP systems.”)

tie the agency's hands. In particular, the caselaw makes clear that FSIS can treat some or all *Salmonella* contaminated food as "adulterated," and prohibit companies from selling that food to the public.

Finally, the agency must set rules for all foods that pose a substantial *Salmonella* risk. Again, for pork and beef, performance standards for *Salmonella* are not currently in force. This means that FSIS does not conduct testing to verify whether a given pork or beef establishment is meeting *Salmonella* performance standards. Without this testing, FSIS cannot make an apples-to-apples comparison between how well establishments are reducing *Salmonella* contamination. Nor can it provide the public—including the clients of meatpacking companies—with information about which companies are performing better to reduce food safety risks. In light of this problem, the Roadmap's pledge that FSIS will "propose *Salmonella* pork performance standards for comminuted products and pork cuts . . . by the end of the year," is encouraging. However, we strongly disagree with the Roadmap's assertion that "modernizing" swine slaughter inspection, without the benefit of *Salmonella* performance standards for pork, has demonstrated the agency's "commitment to focusing inspection resources on evidence-based verification activities." The lack of transparent standards also plagues the agency's waiver-based program to "modernize" beef inspection.

FSIS has repeatedly recognized the value of transparency in improving food safety, and the Roadmap reiterates the agency's commitment "to being more transparent and sharing data with stakeholders . . ." But the agency's actions tell a different story. For over a year, FSIS has been generating whole genome sequencing (WGS) data on the *Salmonella* that it finds in its verification testing program. At a minimum, FSIS should begin sharing that data, in real time, with the establishments that it collects the data from. The Roadmap claims that FSIS is "researching methods of sharing WGS results with establishments," but no new methods are needed. For over a year now, FSIS has generated unique WGS identifiers for each of the thousands of *Salmonella* isolates that it finds in meatpacking establishments, and those identifiers enable anyone with an internet connection, including the establishments themselves, to discover whether a given *Salmonella* specimen matches one that has made people sick.<sup>9</sup> FSIS should stop withholding this WGS data, which has the potential to spur better food safety practices, and is generated at significant taxpayer expense.

Thank you for your consideration of these comments.

Sincerely,

Thomas Gremillion  
Director of Food Policy  
Consumer Federation of America

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<sup>9</sup> See Thomas Gremillion. "We need a clear vision into food safety for 2020," *The Hill*, Jan. 4, 2020 available at: <https://thehill.com/opinion/energy-environment/476715-we-need-a-clear-vision-into-food-safety-for-2020>