Losing Control of U.S. Food Safety

INTRODUCTION

Most current Congressional and media attention on food safety concerns food imports, with particular attention paid to China's food safety controls. Congressional hearings found the Food and Drug Administration's (FDA) food import inspection rate is falling and is now less than a tenth of the inspection rate of food imports in the European Union. In response, President Bush appointed an interagency task force this year that met with industry representatives to develop an import safety plan for both food and non-food imports. A report was issued in November with no budget or timeline.

The U.S. keeps two separate books on food safety policy, one written in federal statutes for the public to read and the other kept in regulatory practices the public is not told about. The American people believe the law requires food to be inspected by federal employees to ensure that it is safe to eat. Federal practices, however, allow regulators to accept the promises of the food industry that food is safe, largely without examining products to verify whether the promises are true.

This fact sheet briefly summarizes principal causes of the loss of U.S. food safety control oversight and some proposals to reassert that responsibility. We describe some of the breakdown of food safety controls and propose a policy to ensure that federal officials can fully execute their statutory authority to protect public health. This analysis focuses on meat and poultry inspection in the Department of Agriculture (USDA), primarily because diseases transmissible from animals and birds, as well as the bacteria and viruses carried by animals and birds, account for much of the illnesses and death that occur from the food we eat.

SUMMER OF OUTBREAKS

During the summer of 2007, at least seven outbreaks of E coli 0157:H7 have sickened hundreds of people, caused several deaths and resulted in recalls for at least 25 million pounds of beef products from retail outlets in Arizona, Arkansas, California, Colorado, Delaware, Idaho, Illinois, Iowa Kansas, Kentucky, Michigan, Minnesota, issouri, Montana, Nevada New Jersey, New York, New Mexico, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Virginia, West Virginia, Wisconsin and Wyoming. USDA's Undersecretary for Food Safety Richard Raymond said there had been 19 recalls of E. coli contaminated beef products in 2007, more such recalls than 2005 and 2006 combined. None of these cases led USDA to the origin of the infection to the slaughterhouses that sold meat processors the product that had the USDA's seal of approval. However, the state of Minnesota did trace back one outbreak. This led to a private lawsuit on October 17 against Cargill for contamination of beef products. Typically, such suits are settled out of court, with confidentiality agreements that prevent the public from knowing the extent or pattern of the food contamination.

The summer outbreaks of 2007 were the fourth in a series of massive cycles of meat and/or poultry contamination that began in 1993 when the Jack-In-The-Box E-coli outbreak killed four children. Similar peaks in major bacterial contamination followed in 1998 and in the 2000-2004 period. USDA's inspector general reported in September 2003 on the huge ConAgra recall of June 2002 noting that both ConAgra and USDA acknowledged the fecal contamination of carcasses was "continuous," but said USDA took no enforcement action. How could USDA management stand by while contaminated carcasses were allowed to enter the food supply?

THE LEGACY OF HACCP

The cycles of contamination followed the Clinton administration's decision to deregulate food safety under the guise of USDA's Hazard Analysis Critical Control Point program (HACCP) in 1998. Under HACCP, the meat and poultry

By Rod Leonard, IATP Board and Community Nutrition Institute, Steve Suppan, IATP Trade and Global Governance

Institute for Agriculture and Trade Policy

2105 First Avenue South | Minneapolis, Minnesota 55404 | USA | (612) 870-0453 | iatp.org

industries police themselves, except for intensely scrutinized small operators that lack the political clout in Washington of a Tyson or Cargill. When companies adopt HACCP programs, their slaughter plants and processing facilities are considered to be producing safe food — in USDA's argot, companies may present only safe food for shipment. However, USDA neither approves nor reviews any HACCP plan, arguing instead that HACCP plans are proprietary documents. Otherwise, a HACCP plan in federal hands would be subject to review as a public document. While beef and poultry carcasses are examined for diseases and conditions that may cause injury or death, inspectors no longer inspect meat or poultry products. Instead, inspectors monitor HACCP paperwork maintained in the plant and, under tightly restricted conditions, products in processing. Meat and poultry would continue to be certified as inspected and approved under the USDA seal of approval, but USDA no longer would certify products are safe. The public, however, was never informed.

In 1997, the U.S. persuaded the Codex Alimentarius Commission, the international food standards body, to recommend HACCP as the global standard for food safety management. (The prior Codex verstion of HACCP, approved in 1969, concerned food quality and hygiene.) The proliferation of HAACP has led, most recently, to the claim in the Chinese government's August White Paper on Food Safety, that "2,675 food producing enterprises have received HACCP certificates" (p.20), and "3,698 have passed the HACCP certification of the entry-exit inspection and quarantine authorities" (p.17). USDA hopes to complete by November an agreement to recognize Chinese meat and poultry safety measures as equivalent to U.S. measures. Such equivalency agreements in the past have been harshly criticized by the USDA inspector general (e.g. in a June 2000 report on HACCP, equivalence and inspection).

HACCP PLUS: RISK BASED INSPECTION

USDA is currently considering further deregulation of food safety controls under the rubric of "risk based inspection." RBI will eliminate much of USDA's remaining oversight in large-scale food processing plants. The new policy, if implemented, would enable USDA to withdraw inspectors in plants judged to have histories of clean production. Under USDA rules, the designation would be awarded to "low risk" plants, those where laboratory tests of meat and poultry demonstrate products are safe, i.e., clean. The problem is that testing is a two-stage process designed to blindfold USDA. Under HACCP, testing is a plant's responsibility. In the first stage, if initial tests indicate contamination, the results are considered "Potentially Positive." The plant at this stage has the right to stop testing and avoid exposing samples to further testing which could result in a "Confirmed Positive" finding, a result that would trigger the second stage, or USDA enforcement action. While inspectors may sample products on their own initiative, in practice USDA samples are never tested in situations where both the plant and inspectors draw samples from the same source until the company test results are available. Hence, a large processing plant that distributes products across many states could be judged "low risk" based on the absence of Confirmed Positive tests.

A NEW FOOD SAFETY POLICY

The history of USDA's deregulation is a conclusive demonstration of a failed policy that will expose consumers to unacceptable risk, a failure that will become chronic and more perilous as new and virulent forms of pathogenic bacteria and viruses emerge and existing ones become more lethal. A new policy is urgently needed to avoid an otherwise inevitable disaster that is building. Deregulation must be replaced with a new regulatory framework anchored in science and built on the trust that government is an essential ingredient in the common good. The choice is between a policy that holds contaminated food to be unavoidable and a policy that assumes a food supply can be safe, free of contamination

A new food safety policy would include:

1. A corps of highly trained, adequately paid federal inspectors equipped with the technology to identify harmful pathogens and authorized to remove contaminated food before it enters the food supply;

2. Prohibition of any rule, regulation, memorandum to staff, or field directive (either written or verbal) authorizing company employees to perform federal inspection functions;

3. Provisions to ensure that any pathogen currently known or encountered later will be considered an adulterant under federal statute;

4. A research capability to maintain an early warning system to recognize emergent organisms likely to pose future risks to public health;

5. A vigorous research and development program in USDA's Food Safety and Inspection Service (FSIS) to develop scientific technologies to identify harmful pathogens instantly and to employ those technologies under operational conditions to enable federal inspectors to remove products adulterated by those pathogens from the food supply;

6. Legal authority to work closely with the food industry to develop, enhance and introduce food safety technologies and to replicate in federal guidelines the managerial practices utilized by flagship food industry companies to achieve food safety standards.

RESOURCES

"E:Coli 0157:H7 is Baaaaaaack in Red Meat." July 22, 2007. E. coli Blog: http://www.ecoliblog.com

"What 'Risk-Based Inspection' Means for Consumers." Food and Water Watch. January 2007. http://www.foodandwaterwatch.org

"Trade Deficit in Food Safety." Public Citizen. July 2007. http://www.tradewatch.org

Sugarman, Carole. "Officials face daunting challenges in detecting non-0157 E. coli." *Food Chemical News.* October 22, 2007.

"Action Plan for Import Safety: A roadmap for continual improvement. Interagency Working Group report to the President. November 2007. http://www.importsafety.gov