

SAFE FOOD COALITION

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October 17, 2013

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

Dear Secretary Vilsack:

We, the undersigned members of the Safe Food Coalition, are writing to express our concern about the ongoing *Salmonella* outbreak linked to Foster Farms and the Food Safety and Inspection Service's (FSIS) response to this serious public health threat.

According to CDC surveillance of this outbreak, 317 persons in 20 states have been sickened with seven strains of *Salmonella Heidelberg* linked to poultry from Foster Farms. Forty-two percent of ill persons have been hospitalized, an unusually high rate of hospitalization. The outbreak strains of *Salmonella Heidelberg* are resistant to several commonly prescribed antibiotics. Through intensified testing at Foster Farms plants, FSIS was able to identify poultry products that contained the same PFGE patterns as the outbreak strains of *Salmonella*. The agency found nearly 25% of its samples were positive for *Salmonella*, nearly three times higher than the agency's performance standard.

We appreciate that in the absence of a definitive link between illnesses and specific product, FSIS took action by issuing a public health alert to notify the public about Foster Farms' association to the outbreak. However, considering the number of people sickened by this outbreak, the high hospitalization rate, the antibiotic resistant strains of *Salmonella*, FSIS' testing results in the plants, and the fact that the outbreak is ongoing, we question why a recall did not occur. FSIS states that it was unable to definitively link an illness case to specific Foster Farms product produced at a specific time. Yet the epidemiological evidence and intensified sampling by the agency pointed to Foster Farms as producing contaminated product that was making consumers ill. Several retailers have already conducted voluntary recalls of Foster Farms product; meanwhile the outbreak is ongoing and contaminated product is presumably still in the market. **We believe FSIS should request that Foster Farms recall their product in the interest of public health.**

Further, we maintain that the agency's response to this outbreak was inadequate. According to the Notices of Intended Enforcement Action issued by FSIS to the three Foster Farms plants, the plants were clearly not maintaining adequate process control. FSIS cites multiple findings to justify this determination. We find it strange that Foster Farms' recent response to the agency would be so satisfactory as to cause the agency to not suspend inspection from plants that were clearly inadequate when FSIS issued the NOIEs. We also question how quickly Foster Farms can implement these new procedures to bring the plants' systems into control. What were the inspector findings leading up to this outbreak and why were they not addressed? Did PHIS identify any trends at these plants that would

have indicated a problem? When were the most recent routine or "for cause" Food Safety Assessments conducted at these three plants and will you make those FSAs public?

We believe USDA should take the following steps to strengthen its regulatory program and prevent similar outbreaks from occurring.

1. USDA should immediately declare antibiotic-resistant strains of *Salmonella* as adulterants.

We continue to see outbreaks linked to antibiotic-resistant pathogens that pose a significant threat to consumers. The CDC has declared foodborne pathogens which are antibiotic resistant as a "serious threat" to public health. According to the CDC about 3% of *Salmonella* is resistant to ceftriaxone and about 5% of *Salmonella* is resistant to 5 or more types of drugs. This means fewer drugs can be used when consumers become sick, complicating treatment and resulting in more severe disease outcomes. It is likely that the high rate of hospitalizations in this outbreak is linked to the fact that the strains are antibiotic-resistant. In 2011, the Center for Science in the Public Interest petitioned FSIS to declare certain antibiotic-resistant strains of *Salmonella*, including the strain identified in this outbreak, as adulterants. We believe that USDA should immediately act on CSPI's petition with updated public health information on outbreaks that have occurred since 2011. Specifically, USDA's declaration should include all poultry products and additional strains of *Salmonella* that have been linked to human illness. This would allow the agency to condemn any product that contained these pathogen strains. We urge USDA to immediately grant this petition and note that it is within the discretion of the Department to apply the latest data and best knowledge about the strains and products involved.

2. FSIS should immediately require poultry plants to reassess their HACCP plans for *Salmonella*.

In reading the NOIEs, we were shocked to learn that Foster Farms plants had identified *Salmonella* as a food safety hazard not reasonably likely to occur in its Raw Intact and Raw Non Intact processes. Unfortunately, there is a long history of federally-inspected plants failing to appropriately identify food safety hazards in their HACCP plans. Following several foodborne illness outbreaks linked to ground poultry products, FSIS required establishments producing not-ready-to-eat ground poultry to reassess their HACCP plans to take into account findings from the outbreak investigations. In the wake of this serious outbreak, we urge FSIS to require all poultry plants to reassess their HACCP plans to ensure they are adequately addressing *Salmonella*. FSIS inspectors should review plants' HACCP plans to determine whether they are accurately identifying hazards likely to occur.

3. FSIS should enhance its policy to assure that product linked to outbreaks is considered adulterated.

A recent federal register notice clarified agency policy that when not-ready-to-eat poultry or meat products are associated with an outbreak of foodborne illness and contain pathogens that are not officially considered adulterants such as *Salmonella*, the agency would still consider the products linked to the outbreak as adulterated and conduct appropriate regulatory action. In this particular outbreak FSIS was able to identify a genetic match between the outbreak strain and product in the plants, so it is unclear why the agency did not consider the product adulterated and request a recall. FSIS should enhance its policy so that if the agency has a genetic match between the outbreak strain and product at a plant, the product would be considered adulterated and a recall would occur.

4. FSIS should seek authority from Congress for enforceable performance standards, mandatory recall authority and financial penalties.

It is clear from agency officials' comments regarding this outbreak that FSIS feels its ability to enforce its performance standards for *Salmonella* is compromised by the *Supreme Beef* court decision. In its

intensified verification testing at Foster Farms plants, FSIS found nearly 25% of its samples positive for *Salmonella*, three times higher than the agency's performance standard of 7.5%. Yet FSIS did not shut the plant down for exceeding the standard. And while Foster Farms did not recall its products, we believe that FSIS must have the authority to require a recall in circumstances when the public health is at risk. FSIS should also have the authority to fine companies who do not meet safety requirements. In order to clarify the agency's authority, FSIS should ask Congress to provide it explicit authority to fully enforce its pathogen reduction performance standards, require companies to conduct a recall and levy financial penalties.

5. FSIS should publish a performance standard for raw chicken parts.

The current outbreak raises concerns about the extent of contamination on chicken parts, which consumers frequently purchase at the supermarket. FSIS recently finalized a nationwide baseline study on raw chicken parts and estimated a national prevalence of 24.02% for *Salmonella* and 21.70% for *Campylobacter*. However the agency has not yet taken action on raw chicken parts. We urge FSIS to publish performance standards for raw chicken parts in order to reduce the prevalence of pathogens on these products.

6. FSIS should conduct baseline studies and set performance standards for incoming loads on poultry flocks.

FSIS guidance states that knowing the level of pathogens such as *Salmonella* and *Campylobacter* in poultry flocks prior to slaughter may help plants manage incoming loads more effectively. Some countries like Denmark and Sweden have achieved reductions in human *Salmonella* illnesses by reducing pathogen levels in poultry flocks on the farm. While FSIS does not regulate on-farm activities, the agency should establish and enforce baseline performance standards at slaughter establishments for incoming pathogen loads on poultry flocks to promote improvements on the farm.

7. FSIS should strengthen and clarify its policy on recalls and public health alerts and ensure consistent communication messages.

As discussed above, we believe FSIS should request that Foster Farms recall their product in the interest of public health. Considering the severity of this outbreak with a hospitalization rate of 42%, FSIS messaging should tell consumers to discard or return Foster Farms chicken, not simply instruct consumers to cook the chicken adequately. While cooking messages are essential, it seems likely from this outbreak that hundreds of consumers did not suddenly stop cooking their chicken thoroughly. FSIS' messaging should reflect that likelihood.

We urge the agency to take the actions outlined above to reduce the risk to consumers from contaminated poultry and to improve USDA's response to a serious public health threat.

Sincerely,

Center for Foodborne Illness Research & Prevention
Center for Science in the Public Interest
Consumer Federation of America
Consumers Union
Food & Water Watch
Government Accountability Project
National Consumers League
STOP Foodborne Illness

CC: Elisabeth Hagen, Under Secretary for Food Safety, USDA
Al Almanza, Administrator, Food Safety and Inspection Service
The Honorable Debbie Stabenow, Chair, Senate Agriculture Committee
The Honorable Thad Cochran, Ranking Member, Senate Agriculture Committee
The Honorable Kirsten Gillibrand, Chair, Livestock, Dairy, Poultry, Marketing and Agriculture
Security Subcommittee
The Honorable Pat Roberts, Ranking Member, Livestock, Dairy, Poultry, Marketing and
Agriculture Security Subcommittee
The Honorable Barbara Mikulski, Chair, Senate Appropriations Committee
The Honorable Richard Shelby, Ranking Member, Senate Appropriations Committee
The Honorable Mark Pryor, Chair, Senate Agriculture Appropriations Subcommittee
The Honorable Roy Blunt, Ranking Member, Senate Agriculture Appropriations Subcommittee
The Honorable Robert Aderholt, Chair, House Agriculture Appropriations Subcommittee
The Honorable Sam Farr, Ranking member, House Agriculture Appropriations Subcommittee
The Honorable Rosa DeLauro
The Honorable Louise Slaughter