

Comments of Consumers Union on
United States Department of Agriculture (USDA) Food Safety Inspection Service (FSIS)
Notice on New Performance Standards for *Salmonella* and *Campylobacter* in Young
Chicken and Turkey Slaughter Establishments; New Compliance Guides
Docket No. FSIS-20090-0034
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Consumers Union¹ (CU) welcomes the opportunity to comment on USDA's new performance standards for *Salmonella* and *Campylobacter* in young chicken and turkey slaughter establishments. We commend USDA for both updating performance standards for *Salmonella* and for establishing a performance standard for *Campylobacter* in chicken and turkey slaughter establishments. We also commend FSIS' policy of publishing the names of establishments that exceed the performance standard (Category 3) for *Salmonella*, and also think they should always publish those that are coming close to exceeding it (Category 2), without the exceptions that exist at present (e.g. if 90% of the establishments for a given product are in Category 1 and no establishments are in Category 3, then Category 2 establishments are not listed). Publishing the names of establishments in Categories 2 will serve as an effective incentive for companies to improve performance.

We see these new performance standards as a step forward in improving the food safety of our food supply. However, we have several comments and believe that USDA can act more quickly to ratchet down the performance standards for both bacteria.

Performance standard for *Salmonella*

We commend USDA for finally updating the *Salmonella* performance standard for poultry. Setting the performance standard at 7.5% for chicken, based on estimated prevalence of *Salmonella*-positive results from the 2007-2008 young chicken baseline survey (YCBS), rather than the present level of 20% is a significant step forward for food safety.

However, testing done for Consumers Union of chicken carcasses purchased in spring of 2009, for the story "How Safe is That Chicken?" in the January 2010 issue of *Consumer Reports* (attached), has shown some companies can achieve even lower levels for *Salmonella* including approaching zero prevalence. We realize that our testing of broilers bought at retail is not the same as the USDA testing that involves "post-chill" samples in the slaughterhouse, but believe that our test results are very revealing nonetheless. Our

¹ *Consumers Union, publisher of Consumer Reports, is an expert, independent nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. To achieve this mission, we test, inform, and protect. To maintain our independence and impartiality, Consumers Union accepts no outside advertising, no free test samples, and has no agenda other than the interests of consumers. Consumers Union supports itself through the sale of our information products and services, individual contributions, and a few noncommercial grants. Over 8 million people subscribe to Consumer Report or Consumer Reports online.*

study involved 382 chicken bought from more than 100 supermarkets, gourmet- and natural-food stores, and mass merchandisers in 22 states. We used very similar testing methodologies as USDA. We tested three top conventional brands—Foster Farms, Perdue, and Tyson—as well as 30 nonorganic store brands, nine organic store brands, and nine organic name brands.

In the *Consumer Reports* (CR) tests, the store-brand organic chickens had no *Salmonella* at all, showing that it's possible for chicken to arrive at the store with 0% *Salmonella*. In addition, our tests showed that both Purdue (6%) and Tyson (7%) were already meeting the new 7.5% standard. On the other hand, Foster Farms (29%) exceeded the standard significantly. These data clearly show that major conventional and organic chicken producers can meet or even beat the new standard. We urge USDA/FSIS to further ratchet down the performance standards, ideally on a biannual basis, taking into account our results as well as the results of the *Salmonella* verification program, rather than the suggested basis of not less than once every four years.

With regards to the *Salmonella* performance standard for young turkeys, the standard has dropped more than tenfold, with prevalence going from 19% in the last young turkey baseline survey (YTBS) to 1.7 percent. Results from the most recent YTBS suggest there has been dramatic improvement in the turkey industry. Given the low prevalence rate of 1.7%, we agree with FSIS that it is appropriate to change the sampling criteria. As FSIS points out, with low prevalence rates seen in the most recent YTBS, you would need to collect many more samples per set than are currently done per facility (currently there are 56 samples for one set) in order to detect real differences in establishment performance. Since this would be exceedingly costly, we agree with FSIS decision to set the performance standard at 1.7% and to change the performance categories. FSIS suggests lowering the level of the current standard for Category 1 and then not having Categories 2 and 3. At present, Category 1 for young turkey slaughter establishments is no more than 6 positives per 56 sample set. FSIS proposes reducing this level to 4 positives per set and publishing the names of establishments that do not meet this performance standard in their last set of samples taken after the implementation of the standard. We disagree with this new level. Allowing a 4 positive per 56 samples means that establishments could do worse than the performance standard of 1.7% and still be in Category 1; in essence, the turkey could get dirtier (e.g. have higher levels of *Salmonella*) and still meet this standard. We urge FSIS to have Category 1 be no more than 1 positive per 56 sample set and list all establishments that can't meet that standard.

FSIS also proposes excluding young turkey slaughter establishments from posting if 90 percent of the establishments are in Category 1, e.g. less than half the performance standard. We urge FSIS not to adopt this policy. We think that all establishments not in Category 1 should be listed, no matter how small the number is. Even one establishment with prevalence over the limit can negatively impact the rest of the facilities. It makes no sense for the poor performers in an industry to benefit simply because most of the other performers in the industry are doing well.

For both chicken and turkey, we commend FSIS for prioritizing scheduling of testing at young chicken or turkey establishments that are not meeting the new standard, e.g. focus first on establishments in Category 3, then Category 2, then Category 1.

Performance standard for *Campylobacter*

We applaud FSIS for finally developing a performance standard for *Campylobacter*. Consumers Union has been advocating for such a standard for more than a decade. This is a major step forward and will clearly improve food safety of poultry in the United States. The proposed performance standard for young chicken comprises two factors based on YCBS prevalence: One specifying the percentage of 1 mL portions that are positive (a less sensitive test), and the other specifying the percentage of total sample-specific results counting either the 1 mL or the 30 mL rinsate portions as positive. Since the agency will be using the samples from the *Salmonella* verification program for testing, there will be 51 samples per set. The performance standard for the 1 mL portion is 10.4%, with no more than 8 positive samples per set. For the total sample-specific results, the prevalence is 46.7%, with no more than 27 of 51 samples positive.

The data from our most recent study, published in the January 2010 issue of *Consumer Reports* show that the industry has a long way to go but that tighter standards can be met. Our data show that Perdue (39%) was under the new standard of 46.7%, although both Tyson (83%) and Foster Farms (81%) greatly exceeded the standard. In addition, name brand organic (47%) just met the standard, while store brand organic (57%) exceeded it. Given the challenges with *Campylobacter* and the fact that this is a new standard, we feel that FSIS should work to ratchet down the *Campylobacter* standard as well, but not as quickly as for *Salmonella*.

We also strongly believe that FSIS should implement the Category 1/2/3 approach for *Campylobacter* as has been done for *Salmonella*. Publishing the names of establishments in Categories 2 and 3 will provide an incentive for establishments to improve their process standards and reduce their levels of *Campylobacter*.

Performance categories for establishments

In 2006, FSIS published a **Federal Register** notice (71 FR 9772-9777; Docket 04-026N) that announced a new Agency policy for reporting the results of FSIS' *Salmonella* testing program. In addition to defining the performance standard to be equal to prevalence found in the *Salmonella* survey programs, this notice also established three performance categories for establishments. Category 1 was for establishments that achieved a prevalence level that was no more than half the performance standard (the best performers in the industry). Category 2 was set at more than half but not exceeding the standard, while Category 3 was for establishments exceeding the performance standard.

The 2006 FR notice also pointed out that FSIS planned to test all the establishments over the following year for *Salmonella*, and to publish the names of establishments in Categories 2 and 3 for any product class that did not have 90 percent of its establishments in Category 1. FSIS soon tightened the exemption, so that in order to be exempt from having any of its establishments published, a product class must have 90 percent of the establishments in Category 1 and none in Category 3. In 2008, FSIS began publishing the names of such establishments.

We agree with FSIS that it is a good idea to publish the names of establishments that fall into Categories 2 or 3, as a way to provide an incentive for the industry to continue to improve their process control so their name doesn't get published on a list. However, we do not understand the rationale for **not** publishing the names of establishments in Categories 2 for any product class where more than 90 percent of the establishments are in Category 1. If publishing the name of an establishment provides an effective incentive for improving performance, then this policy means that if 90 percent of the establishments in a product category are very good, then the other 10 percent have no incentive for improving their performance. Indeed, as FSIS points out, since they began using the Category 1/2/3 approach in 2006, more than 90 percent of the young turkey slaughter establishments have been in Category 1 and none in Category 3. Thus, the Category 2 establishments for young turkey slaughter have not been listed, so there is no incentive for them to improve. Listing such establishments will cost FSIS very little, as the samples have been taken and analyzed. The only question is whether to publicly list these companies, which only entails posting information FSIS already has. We do not think there should be any such exception. **We feel that FSIS should publish the names of all establishments in a product class that are in Category 2 or 3, with no exceptions.**