

**UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE**

In re: Fecal Contamination of Poultry and Meat

Petition No. 13-02

**PETITION FOR RULEMAKING**

**ADDENDUM**

**Submitted to:**

Mary Porretta, Petitions Manager  
Department of Agriculture  
Food Safety and Inspection Service  
Office of Policy and Program Development  
1400 Independence Avenue SW, 6071-South Bldg.  
Washington, DC 20250

**Date:**

May 6, 2013

**Reply to:**

Physicians Committee for Responsible Medicine  
c/o Mark Kennedy, Director of Legal Affairs  
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Dear Petitions Manager Porretta:

The Physicians Committee submits this addendum to its petition for rulemaking regarding fecal contamination in response to the Food Safety and Inspection Service's notice of April 15, 2013, advising that the petition is now under review. The Physician Committee's petition, dated March 14, 2013, requested that USDA declare and regulate feces as an adulterant, require that all meat and poultry product labels uniformly disclose the presence of feces, and remove the word "wholesome" from the official inspection legend for poultry products.<sup>1</sup>

In early 2012, the Food Safety and Inspection Service proposed a rule to implement a new inspection system for chicken and turkey slaughter establishments.<sup>2</sup> The rule will change pathogen testing standards, slaughter processing line speeds, the number of federal inspectors at regulated establishments, and the duties imposed on establishments.<sup>3</sup> Secretary Vilsack announced last month that this new rule will be finalized "very soon."<sup>4</sup>

As recognized in the proposed rule, fecal contamination is a food safety hazard "reasonably likely to occur in poultry slaughter operations" unless addressed with appropriate measures. A 2009 USDA study found that 87 percent of chicken carcasses tested positive for generic *E. coli*, a sign of fecal contamination, after chilling and just prior to packaging.<sup>5</sup> Similarly, the Physicians Committee's 2012 testing of 120 supermarket chicken samples found that 48 percent of the samples tested positive for feces.<sup>6</sup> More recently, Consumer Reports announced that its own analysis of 257 ground turkey samples purchased from nationwide retail stores showed that "more than half of the packages of raw ground meat and patties tested positive for fecal bacteria."<sup>7</sup>

Under the current inspection system, "one or more FSIS online inspectors inspect every carcass, with its viscera, at a fixed point along the slaughter and evisceration line."<sup>8</sup> To carry out USDA's purported "zero tolerance standard for contamination by visible fecal material . . . the Agency permits the reprocessing of carcasses contaminated on their inner surfaces with visible digestive tract material before they enter the chilling tank. The regulations require that all reprocessing of

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<sup>1</sup> Physicians Committee for Responsible Medicine, Petition for Rulemaking re: Fecal Contamination of Poultry and Meat, Petition No. 13-02, at 2 (Mar. 14, 2013), [http://www.fsis.usda.gov/PDF/Petition\\_Physicians\\_Committee.pdf](http://www.fsis.usda.gov/PDF/Petition_Physicians_Committee.pdf).

<sup>2</sup> Modernization of Poultry Slaughter Inspection, 77 Fed. Reg. 4408 (proposed Jan. 27, 2012) (to be codified at 9 C.F.R. pts. 381, 500).

<sup>3</sup> See generally 77 Fed. Reg. at 4408-4456.

<sup>4</sup> Tom Vilsack, Secretary, USDA, Testimony Before the House Committee on Appropriations (Apr. 16, 2013), <http://www.ustream.tv/recorded/31542359> (at 51:17 through 51:23).

<sup>5</sup> Altekruze SF, Berrang ME, Marks H, et al. Enumeration of *Escherichia coli* cells on chicken carcasses as a potential measure of microbial process control in a random selection of slaughter establishments in the United States. *Appl Environ Microbiol.* 2009;75(11):3522-3527.

<sup>6</sup> Physicians Committee for Responsible Medicine, Fecal Contamination in Retail Chicken Products (2012), <http://www.pcrm.org/health/reports/fecal-contamination-in-retail-chicken-products>.

<sup>7</sup> *Consumer Reports Investigation: Talking Turkey*, CONSUMER REPORTS, June 2013, <http://www.consumerreports.org/turkey0613>.

<sup>8</sup> 77 Fed. Reg. at 4410.

poultry occur at an approved reprocessing station away from the processing line.”<sup>9</sup> Trimming, washing, and vacuuming are common offline reprocessing methods.<sup>10</sup>

The proposed rule, in contrast, “would allow visibly contaminated poultry carcasses to remain online for treatment by a system of automatic bird washers and antimicrobial spraying or drenching equipment, rather than hav[ing] to be moved off the line to an offline reprocessing station.”<sup>11</sup> “All carcasses would remain on the line to be treated with the on-line anti-microbial agent, whether they are contaminated or not.”<sup>12</sup> In other words, all poultry products would be doused with an agent such as trisodium phosphate, chlorinated water, or acidified sodium chlorite<sup>13</sup> prior to reaching consumers.

Like the current regulations, the proposed rule seeks to maintain a “zero tolerance” policy for visible feces.<sup>14</sup> The proposed rule states that the new system will be an improvement over the current system in that it will reduce the number of carcasses with visible fecal contamination reaching the chilling tank.<sup>15</sup> Yet the proposed rule and the current regulations do nothing to eliminate fecal contamination that is fully absorbed by the chicken carcasses and not visible to the human eye.

According to Carol Tucker Foreman, former Assistant Secretary for Food and Consumer Services at USDA, “Chickens are very absorbent animals. When you put them into the water bath to chill them, they gain a little weight.”<sup>16</sup> Although the new rule may reduce the amount of visible feces that reaches the chilling tank, the proposed changes do not affect the scalding process, in which the chickens, directly after being killed and bled, are submerged in a hot water bath. As explained in 2008 by Stan Painter, current Chair of the National Joint Council of Food Inspection Locals, “you take a chicken that eats, sleeps, craps and everything in one little space, they enter the scald vat dirty, and it takes only a few minutes to become just brown fecal soup.”<sup>17</sup> This “fecal soup” permeates the absorbent chicken carcasses with contamination that is not visible.

As a result, the current system and the proposed system both fail to address the concerns raised by the Physicians Committee, namely that consumers expect products deemed “wholesome” by USDA to be free of feces (whether visible or not) and any associated remnants of round worms, hair worms, tape worms, or material that the animal was in the process of excreting at the time of slaughter.<sup>18</sup> The only way for USDA to eliminate feces from meat and poultry products is to

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<sup>9</sup> 77 Fed. Reg. at 4432.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> See id. at 4431-32, 4451.

<sup>14</sup> Id. at 4426.

<sup>15</sup> See id. at 4415-19.

<sup>16</sup> NEAL D. BARNARD, M.D., *THE POWER OF YOUR PLATE: EATING WELL FOR BETTER HEALTH - 20 EXPERTS TELL YOU HOW* (1995).

<sup>17</sup> Stan Painter, Remarks at Plenary Session of the National Advisory Committee on Meat and Poultry Inspection (Feb. 6, 2008), [http://www.fsis.usda.gov/OPPDE/NACMPI/Feb2008/Plenary\\_020608.pdf](http://www.fsis.usda.gov/OPPDE/NACMPI/Feb2008/Plenary_020608.pdf).

<sup>18</sup> Physicians Committee for Responsible Medicine, Petition for Rulemaking re: Fecal Contamination of Poultry and

declare and regulate feces as an adulterant, such that all contaminated products are condemned and prohibited from use as food.<sup>19</sup>

According to Secretary Vilsack, the “poultry slaughter process probably has not been reviewed in terms of its methods for nearly fifty to sixty years. We’ve learned a lot from science as a result of research and in terms of what causes disease and foodborne illness.”<sup>20</sup> To avoid disease and foodborne illness, the modern consumer seeks and reasonably expects truthful disclosures about ingredients, calories, nutrient content, potential allergens, and health risks. Yet although titled and touted as a “modernization,” USDA’s proposed rule—like the current system—continues to convey a misleading promise of “wholesomeness” to consumers.

As set forth in the Physicians Committee’s petition, Americans deserve fair notice that food products considered “wholesome” by USDA would be disgusting to the average consumer and adulterated under any reasonable reading of federal law. Yet USDA’s current and proposed regulations allow and will continue to allow meat and poultry products contaminated by feces to reach consumers’ dinner plates so long as the feces are not visible to the human eye. If USDA will not condemn all fecally contaminated products, then, at a minimum, it must inform consumers what they are eating. Therefore, as requested in the Physicians Committee’s petition, USDA should ensure that all meat and poultry product labels uniformly disclose the presence of feces and remove the word “wholesome” from the official inspection legend for poultry products.

Respectfully submitted,



Mark Kennedy  
Director of Legal Affairs

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Meat, Petition No. 13-02, at 2 (Mar. 14, 2013), [http://www.fsis.usda.gov/PDF/Petition\\_Physicians\\_Committee.pdf](http://www.fsis.usda.gov/PDF/Petition_Physicians_Committee.pdf).

<sup>19</sup> See 21 U.S.C. §§ 455(c), 604.

<sup>20</sup> Tom Vilsack, Secretary, USDA, Testimony Before the House Committee on Appropriations (Apr. 16, 2013), <http://www.ustream.tv/recorded/31542359> (at 50:48 through 51:02).