

THE JUNGLE 2000

IS AMERICA'S MEAT FIT TO EAT?

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A Survey of the United States Department of Agriculture's Meat Inspectors

"Plant managers say the rule is—there are no rules!
We [plant managers] write our own regulations."

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Executive Summary

...huge blocks of dingy meat factories, whose labyrinthine defied a breath of fresh air to penetrate them...rivers of hot blood, and carloads of moist flesh, and rendering vats and soap caldrons, glue factories and fertilizer tanks that smelt like the craters of hell...

The Jungle¹

Nearly a century ago, Upton Sinclair graphically described the filthy and dangerous conditions at slaughterhouses in *The Jungle*. The novel created a public scandal that resulted in the passage of the Meat Inspection Act of 1906. The law mandated that beef and pork be inspected continuously during slaughter and processing by government meat inspectors, who would rely on sight, touch and smell to check for animal diseases or fecal contamination.

However, in 1996 the meat inspection program was revamped by the Clinton administration with the introduction of the Hazard Analysis and Critical Control Point (HACCP) system. HACCP moves the responsibility for ensuring a safe meat supply from government inspectors to the meat industry. Its stated goal is to use a science driven risk-based system that would provide safe meat. Microbial testing was also implemented along with HACCP to ensure that meat-processing plants attain performance standards.

Unfortunately, evidence is mounting that the HACCP system has weakened the meat inspection system rather than strengthening it and that the microbial testing program is flawed. Because of the large amount of meat inspected in this nation, the problems identified with the meat inspection program are very troubling. In 1999, 155 million livestock (cattle, swine, sheep, goats, and horses) and 8.4 billion poultry carcasses were processed.²

Now, the meat industry and its allies at the United States Department of Agriculture (USDA) want to move completely to a company self-inspection program at slaughterhouses. The USDA already has a pilot program in approximately 29 plants that use company “inspectors” to inspect meat, while the government inspectors spend most of their time inspecting company paperwork. Although a federal court has found this type of company self-inspection illegal, the meat industry is lobbying Congress to change the law and make privatization of meat inspection legal. The time is ripe for reviewing the meat inspection program and making recommendations about its future.

The Jungle 2000 provides an overview of the history of meat inspection in the United States, which sets the stage for an analyses of a survey of USDA meat inspectors who work in processing plants that have implemented HACCP. The surveyed meat inspectors disclose that

¹ Upton Sinclair, *The Jungle*, Bantam Classic Edition, October 1981, at 109 (first published in 1906).

² Testimony by Margaret Glavin before the House Appropriations Committee, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, March 9, 2000.

the implementation of the HACCP program is threatening meat safety. The findings from a recent report by the USDA's Office of Inspector General (OIG) provide additional evidence that the meat inspection system is in turmoil. The OIG's report identifies many of the same problems with the new inspection system and the microbial testing program that were also found by the survey of meat inspectors.

The results from the survey and the comments of the USDA's OIG show that the conditions portrayed by Sinclair in slaughterhouses almost 100 years ago could reemerge if immediate action is not taken to address the problems with the current inspection program.

METHODOLOGY FOR SURVEY

In July 1999, a 14-page survey with 114 questions, designed by The Government Accountability Project (GAP),³ was sent to about 2,340 of the approximately 3,850 HACCP inspectors who were working in meat processing plants. The HACCP inspectors watched over 92 percent of the U.S. meat supply. Of those who received the survey, 451 HACCP inspectors responded. At the time of the survey, the respondents had spent an average of 18.5 years as federal meat and poultry inspectors.

SURVEY RESULTS

The surveys of meat inspectors reveal that the recent changes to the USDA's inspection of meat and poultry have decreased, rather than improved protections for consumers and must be reexamined. The meat inspectors who responded to the survey were responsible for ensuring the safety of a large percentage of the nation's meat supply, although the exact percentage is impossible to compute. Inspectors work in plants processing amounts of meat ranging from a half million pounds to a few thousand pounds per day.

The numbers of inspectors reporting problems is extremely significant because it indicates the sheer magnitude of the problems with the inspection program. These types of events should occur rarely, if ever. For instance, consumers would find it unacceptable for even one inspector to report that he/she regularly sees fecal contamination on meat, because the USDA claims to have a zero tolerance for fecal contamination of meat.

The numerous instances reported are very likely an underestimate of actual occurrences.

³ In June 1999 GAP designed a survey of federal meat and poultry inspectors who had HACCP training and worked in HACCP plants. The survey was distributed in late June 1999 through the National Joint Council of Food Inspection Locals. The presidents of the eight regions in the U.S. received surveys and instructions from GAP for distributing them. Responses received from inspectors who were not trained in HACCP or had not worked in a HACCP plant were excluded.

The surveys also provided opportunities for meat inspectors to share their opinions and experiences on the recent changes to meat inspection programs. Some representative excerpts from the comments of government inspectors are presented after the quantitative data in each section.

Americans Are Eating Dirty Meat

- 210 inspectors (out of 327 responding) indicated that since HACCP began at their plant, there have been instances when they have not taken direct action against contamination (feces, vomit, metal shards, etc.) that they observed and would have taken action against under the old system. Of those, 206 responded that this occurs daily or weekly.
- 197 inspectors (out of 391 responding) said that they were instructed to check further down the line to ensure that the system caught contamination they had already observed, but that they were prohibited from removing it when they first observed it.
- 56 inspectors (out of 281 responding) reported that they have been instructed not to document violations they observe while performing slaughter duties.
- “I will not buy inspected product—only what I raise. I do not eat out, and I don’t allow my children to eat at school. We didn’t used to have to put warning labels on product for ‘safe handling’ but we do now. This is just a politically correct way of saying cook good, this product may contain fecal matter and other poor sanitary handling bacterias (sic). I was told by a supervisor some time back that if you cook a piece of [feces] to 170 degrees you can eat it and it won’t hurt you. But I don’t really think the consumer is aware of the [feces] they are being fed.”⁴
- “I also feel that you can’t allow the company to do their own inspection on the kill floor. Companies are in business to make money. When you put them in charge of inspecting their own product, I think money becomes the determining factor.”⁵
- “I worked in poultry, swine, beef and without inspectors around. Many things go on—especially things on the floor; they just pick it [contaminated meat] up and put it in for human consumption.”⁶
- “In training it was zero tolerance, now it’s nearly zero tolerance.”⁷

⁴ Survey #333.

⁵ Survey #429.

⁶ Survey #108

⁷ Survey #42.

Workers and Inspectors Fear Company Retaliation

- 376 inspectors (out of 432 responding) reported that company employees secretly ask for government help in dealing with problems in the plant because they fear retaliation from company supervisors.
- 199 inspectors (out of 401 responding) reported that plant management argued that their HACCP decisions were improper.
- 80 inspectors (out of 432 responding) said their supervisors had warned them that a specific action they had taken on the job could result in a lawsuit brought against the inspector him/herself by the company.
- “I have been harassed by the plant. I have been labeled a troublemaker by the agency. The agency has sided with plant management on several occasions without even consulting the inspector in question.”⁸
- “Management has posted written warnings for their employees not to talk with USDA [and] they were posted where USDA would read them also.”⁹
- “The plant owners...do not pay employees enough to keep them, and this results in high rates of turnovers, which results in untrained personnel doing a job that requires and employee to recognize unsafe, unhealthy conditions or disease processes. This is why government trains the inspectors, both in class rooms and online, to have a knowledge base so that the prime mission of public safety is met.”¹⁰
- “Told that plants have taken USDA to court over [enforcement] actions and we should be sure of our facts and not overstep our authority.”¹¹

Inspectors Are Told To “Let the System Work”

- 344 inspectors (out of 426 responding) felt they cannot generally enforce the law as well under HACCP as before HACCP.
- 232 inspectors (out of 338 responding) said that they cannot enforce the law as “realistically” now because HACCP regulations explicitly limit direct government action.
- “Instead of taking action immediately, we are instructed to ‘let the system work.’”¹²

⁸ Survey #504.

⁹ Survey #411.

¹⁰ Survey #163.

¹¹ Survey #163.

- “We have had more recalls since HACCP was implemented than I can ever remember. This should tell everyone that the inspection in the plants is not what used to be, and I think HACCP is to blame.”¹³
- “The training seemed unclear and confusing. The thing most repeated was, “let the system work.” They stayed away from hands-on enforcement.”¹⁴

Company Management Can Call the Shots on HACCP

- 266 inspectors (out of 338 responding) said that the primary reason they cannot enforce the law as “realistically” under HACCP is because government inspection tasks are reduced, since government monitoring points are now based on company-created HACCP plans.
- 204 inspectors (out of 362 responding) indicated that there have been instances when they found contamination, but the plant had no “critical control point”¹⁵ to address it.
- 199 inspectors (out of 249 responding) believe that the public’s right-to-know about food safety information (including contamination and sanitation) is adversely affected under HACCP.
- “Plant managers say the rule is—there are no rules! We [plant managers] write our own regulations.”¹⁶
- “Two sets of records are being kept by [the meat plant]; one set to show USDA inspectors (looks real good); and one set for their own use.”¹⁷
- “When I was writing the non-compliance records I thought needed to be written, the plant complained on me continuously because those records are accessible by the public, and they did not want the consumer to have knowledge of their unsanitary practices.”¹⁸

Inspectors Audit Paperwork Rather Than Inspect Meat

- 379 inspectors reported that they spend five times as much time checking company records under HACCP as they did under the former system and about one-third of the time spent

¹² Survey #494.

¹³ Survey #390.

¹⁴ Survey #145.

¹⁵ The point in meat processing where the company identifies and commits to eliminate hazards. Under HACCP, inspectors’ authority is limited primarily to inspecting meat at these points.

¹⁶ Survey #515.

¹⁷ Survey #430.

¹⁸ Survey #503.

under the former system actually inspecting the meat and poultry products to protect consumers.

- “It’s a big paper chase...dot the ‘i,’ cross the ‘t.’ That is all that counts.”¹⁹
- “We took specific control actions under the traditional system. If the plant takes specific action we really don’t know—we are compelled to take their word for it with no means to verify.”²⁰
- “The record keeping requirements...require that plants make entries at the time observations are made.... On more than one occasion the [FSIS supervisor] has allowed the plant to ‘build records’ after the identification of a record keeping deviation by [FSIS inspectors].”²¹

Inspectors Favor HACCP as Originally Promised by USDA

- 342 inspectors (out of 415 responding) said that they are still in favor of HACCP as an addition to continuous inspection.
- 332 inspectors (out of 429 responding) reported that, based on their experience, HACCP has been primarily implemented as a substitute for continuous inspection.
- 34 inspectors (out of 423 responding) indicated that they are or would be supportive of HACCP as a substitute for continuous inspection.
- “Incorporate the best of the old traditional inspection with the best of HACCP, keeping in mind that bird-by-bird, carcass-by-carcass inspection is and should be our first line of defense to provide the public with safe food.”²²

USDA’s Inspector General Finds Similar Problems

Survey findings and many of the conclusions in a report completed by the USDA’s own Office of Inspector General (OIG) are mutually reinforcing. In the June 2000 report, the OIG concluded that by implementing the new program, the agency “reduced its oversight beyond what was prudent and necessary for the protection of the consumer.”²³

The report goes on to say:

¹⁹ Survey #200.

²⁰ Survey #145.

²¹ Survey #32.

²² Survey #163.

²³ USDA Office of Inspector General, *Food Safety and Inspection Service Implementation of the Hazard Analysis and Critical Control Point System*, Report No. 24001-3, Washington, DC, June 2000, at ii.

Under the pre-HACCP system, the production of meat and poultry products was monitored at every stage by Government employees rather than by in-plant production managers. The HACCP program reversed this arrangement by allowing a plant to monitor itself. It gave industry, not Government, the primary responsibility for ensuring the safety of meat and poultry products.²⁴

The OIG's report goes on to explain that by limiting the number of "critical control points" in its HACCP plans, a company can reduce the ability of inspectors to ensure that meat is safe:

Because HACCP plans constitute the basis for FSIS oversight, plants can limit that oversight by reducing the number of CCPs (critical control points) identified in their plans...Although FSIS required a minimum of one CCP per process, we found some listed none. Also, there were HACCP plans that identified hazards for which no control points were listed.²⁵

The OIG's report also confirms that the design of the microbial testing program and its management are flawed. According to their audit,

Currently, FSIS does not review plants' microbial testing plans to ensure that sampling protocols are completed and followed, and it does not adequately secure samples sent to the USDA labs for testing. One recent investigation in Florida found that samples under lax security had been tampered with, resulting in false test results.²⁶

CONCLUSIONS

HACCP is not providing American consumers with the level of protection that they expect and deserve from the purple USDA seal of approval. The USDA has allowed the meat industry to use HACCP as an industry honor system. Because of its enormous political power, the meat industry has had the clout to shape the HACCP program and make it a replacement for, rather than an addition to continuous inspection of meat. Decreasing inspectors' authority to inspect all along the line means processing lines can operate faster—and that means more profits. Other changes in the law, such as removing the authority that meat inspectors had under the old system to require that facilities and equipment be kept clean, are also threatening food safety.

Contrary to what was promised by the Clinton administration, the HACCP program is being used to weaken meat inspection by restricting inspectors' authority. President Clinton and Secretary Glickman pledged that the program would add to the protections consumers enjoyed

²⁴ Ibid., at 1.

²⁵ Ibid.

²⁶ Ibid., at iii.

under the old system, not subtract from them by limiting the authority of government meat inspectors.

Under the pretense of modern science, meat inspectors are now generally prohibited from examining the entire meat processing line to prevent fecal matter, rotten meat or other objectionable contamination from reaching consumers. Inspectors are primarily limited to examining meat at an area that the company designates as a “critical control point,” and the company is allowed to choose the location and number of these points. As a result, consumers are being allowed to eat meat that can be contaminated both with potentially infectious fecal matter and non-lethal substances—including tumors, pus, blisters, scabs, hair, feathers, rust, and bits of metal.

Chemical interventions and irradiation are being substituted for good sanitation practices, which means that in many cases companies attempt to sterilize fecal matter rather than remove it. Furthermore, the practices used for microbial sampling of meat and poultry for pathogens are fraught with problems—too few samples for too much meat and too much room for error.

The USDA made these changes under the guise of improving meat inspection, and they are shrouded in jargon about science-driven, risk-based food safety. The agency could have maintained continuous inspection, while adding microbial testing and other science-based tools, thus increasing needed protections. Instead, the USDA, an agency that is overly responsive to agribusiness concerns, has betrayed consumer trust by facilitating the partial dismantling of the meat inspection system.

RECOMMENDATIONS

The meat inspection process must be reexamined. Among the principles that should govern meat inspection are:

- Self-inspection by the meat industry is inappropriate. The federal government is the appropriate institution to inspect government-approved meat;
- The federal government, not the regulated industry, should make the final judgment call on whether each carcass receives approval;
- HACCP must be reevaluated and redesigned along the lines that were originally promised by the Clinton administration. The consumer protections that have been discontinued should be reinstated, including continuous physical inspection of carcasses, the pre-operational inspection of sanitation, and the authority of meat inspectors to require the removal of contamination at all points during slaughter and meat processing;

- USDA should not weaken the standards for adulteration. Adulteration covers more than merely microbial contamination. It also includes visual contaminants (i.e. tumors, or pus from abscesses). At the very least, adulterants should be labeled;
- Congress and USDA should require state of the art whistleblower legal protection for any employee who defends food safety;
- USDA should stop covering up contamination, by removing gag orders that ban its inspectors from making a record of contamination they catch during inspection.
- Government inspectors should be armed with the most advanced consumer protection technologies, for instance, real-time, rapid tests for contamination, which can be used to prevent meat with deadly pathogens from ever leaving the plant;
- Interventions that mask contamination, such as tri-sodium phosphate washes and irradiation, should not be used to replace sanitation. The use of any of these interventions should be, at the very least, clearly labeled.

Introduction

*“I also feel that you can’t allow the company to do
their own inspection on the kill floor.
Companies are in business to make money.
When you put them in charge of inspecting their own product
I think money becomes the determining factor.”²⁷*

American consumers wake up! In the back rooms of Washington, the meat industry is attempting to use its enormous political muscle to “cut a deal” that will essentially strip the U.S. government of its almost 100 year mandate to inspect the nation’s meat for contamination and wholesomeness. The industry and its allies in the federal government want the U.S. Department of Agriculture’s (USDA) purple seal that meat has been inspected by the government to become a fraud, masking company self-inspection. The industry’s goal is to use company “inspectors” to inspect meat, while government meat inspectors cycle through the slaughtering plants and check company paperwork.

The industry’s self-inspection plan has been thwarted by the federal court. On June 30, 2000, the Circuit Court of Appeals for the District of Columbia determined that federal meat inspectors cannot fulfill their statutory duty to inspect meat and poultry inspection by watching others perform the task. Judge A. Raymond Randolph said, “[one] might as well say that umpires are pitchers because they carefully watch others throw baseballs.”²⁸

Now, in order to proceed with self-inspection, the meat industry must change the federal meat inspection laws. Along with their allies in the USDA, the industry is actively lobbying members of Congress.

Most Americans would be shocked to learn that this monumental change is taking place behind closed doors, without a public debate. They are probably not even aware that major changes were already made to meat inspection in 1996 on the pretext that meat safety was being increased. But, the evidence is mounting that the new inspection system is threatening meat safety.

The time is ripe for reviewing the inspection system in the past and present and making recommendations for its future.

²⁷ Survey #429.

²⁸ *American Federation of Government Employees, AFL-CIO, et al. Appellants v. Daniel R. Glickman, Secretary of the U.S. Department of Agriculture, et. al., Appellees*, U.S. Court of Appeals for the District of Columbia Circuit, June 30, 2000, No. 99-53-20.

Chapter 1

Meat Inspection: An Overview

...the speeding up seemed to be growing more
savage all the time; they were continually inventing new devices...
requiring the same work in a shorter time...

*The Jungle*²⁹

The first meat inspection law was passed in the late 19th century in an effort not to protect consumers, but to provide the nation's meat industry with a method of officially assuring consumers that their product was wholesome. A handful of companies, called the Chicago Beef Trust, were dominating the meat industry. Not only were they selling filthy and adulterated meat, the Trust was preventing farmers in other parts of the country from selling their cattle at a competitive price. Some states were passing state inspection laws as a way to keep Chicago beef from being sold within their borders. Meanwhile, Germany had banned American pork because of trichinosis, and the British were restricting the importation of American beef.³⁰

In order to successfully export meat, the Chicago Beef Trust decided a seal of the government's approval was needed. The Meat Inspection Act of 1891, in conjunction with a friendly ruling by the U.S. Supreme Court, restricted the efforts of states to regulate meat safety and sales, but gave the impression that the government was ensuring the wholesomeness of meat. The meat industry, dominated by the Chicago Beef Trust, was provided with a rubber-stamp inspection system that protected their economic interests.³¹

However, after Sinclair's expose on meat production, President Theodore Roosevelt ordered an investigation of the meatpacking industry. The report confirmed the problems documented in *The Jungle*, and the Meat Inspection Act of 1906, requiring government employees to inspect all meat sold to American consumers, eventually passed. The law also increased regulation and safety standards for the meatpacking industry.

Nevertheless, consolidation in the industry continued to be a problem, resulting in higher prices and lower quality meat for consumers. In 1920, five packers controlled 70 percent of the nation's beef and pork supply. Price fixing and predatory pricing had destroyed competition. The government challenged the Trust and dismantled the monopoly.³²

²⁹ Sinclair, *The Jungle*, at 275.

³⁰ Gary Libecap, "The Rise of the Chicago Packers and the Origins of Meat Inspection and Antitrust," *Economic Inquiry*, April 1992.

³¹ Ibid.

³² Ibid.

In 1957 Congress began regulating chicken, a meat that was still considered a luxury item. The Wholesome Poultry Products Act of 1968 amended the earlier law, mandating that poultry be inspected continuously from slaughter through processing. Eggs and egg products began to be regulated in 1970, when the Egg Products Inspection Act was passed. Congress added few regulations to the industry between 1970 and 1996.³³

DEREGULATING MEAT INSPECTION

Beginning in the 1970s, the meat industry argued that USDA inspectors were outdated and that traditional inspection, which used tools such as touch, sight, and smell should be abandoned. The deregulation effort began in the Ford administration, when a study by the Booz, Allen and Hamilton management consulting firm was commissioned to recommend how to change the meat inspection system.³⁴ The report was released during the Carter administration during the tenure of Undersecretary of Agriculture, Carol Tucker Foreman.³⁵ The focus of the report was improving cost effectiveness and eliminating unnecessary interference with commerce. This study recommended cutting back on the role of government meat inspectors and encouraging “corporate quality control.”³⁶

The study proposed creating a monitoring system which “places the burden of proof of compliance with Federal laws and regulations on the industry. It is their responsibility to provide acceptable evidence of this compliance...”³⁷

This proposed deregulation began in earnest under the Reagan and Bush administrations as industry pressure to allow the increase of slaughter line speeds intensified. Mechanization of slaughtering and meat processing had made it possible to dramatically increase the line speeds. The meat industry felt that government inspection slowed down slaughtering and processing lines.

Although the first known incidence of food-borne illness from the potentially deadly pathogen *E. coli* O157:H7 took place in 1982,³⁸ creating an even greater need for caution in slaughtering, the industry successfully lobbied in the early 1980s to more than double slaughter line speeds.

³³ Center for Public Integrity, *Safety Last: The Politics of E. coli and Other Food-Borne Killers*, Washington, DC, 1998, at 16.

³⁴ Conversation with Carol Tucker Foreman on August 21, 2000.

³⁵ After she left the USDA, Carol Tucker Foreman opened a consulting firm that worked for various industry groups, including the meat industry. While still a consultant, she began coordinating the Safe Food Coalition, and continues to do so currently as a distinguished fellow and director of the Food Policy Institute at the Consumer Federation of America.

³⁶ USDA, “Study of the Federal Meat and Poultry Inspection System,” Volume III, Executive Summary, Washington, DC, July 1977.

³⁷ *Ibid.*, at 76.

³⁸ Nicols Fox, *Spoiled: Why Our Food Is Making Us Sick and What We Can Do About It*, New York: Penguin Group, 1997, at 220-224.

Federal inspectors, already overworked and unable to adequately check the carcasses whizzing by, were given half the time to do the same job.

As a result, slaughterhouses became even more fertile ground for contamination. The guts of individual animals are shaped differently, and mechanized evisceration frequently results in torn intestines, thus spreading fecal contamination. Since the same machine eviscerates 91 birds per minute and thousands of birds an hour, it only takes one salmonella-infected bird to infect hundreds of others.

Although the conditions in slaughterhouses are contributing factors to the problem of food-borne disease, industrialized animal production practices are also causing the transmission of pathogens. Agribusiness operations, i.e., factory farms, house large numbers of closely confined animals that are subjected to stressful living conditions, resulting in the spread of bacteria. Animals live in their own filth, are fed contaminated food, given antibiotics and hormones, and transported to slaughterhouses covered in feces and urine. Slaughtering and processing lines move very rapidly, making it even more difficult to identify and remove contamination. These practices play a role in the spread of bacteria.

PRESSURE MOUNTS FOR ACTION

Although food-borne disease outbreaks became major media events in the 1980s, it is now impossible to document what action the USDA took to address the problem. For instance, did officials attempt to identify herds of cows where the deadly *E. coli* O157:H7 bacteria lurked and eradicate it? The paperwork reduction regulations of the early 1980s have made it impossible to track the actions taken by the USDA to eradicate *E. coli*, since documents were no long kept more than two years.³⁹

But continued outbreaks of food-borne disease kept the issue in the news. In 1987, after *E. coli* in meat caused four deaths at two institutions in Utah, the USDA decided that the meat did not need to be recalled, because it was “safe” if cooked properly, and that sampling or recalling it “would create more problems for the agency.” The meat from the contaminated lot was sent on to other facilities.⁴⁰

In 1992, 40,000 patties from a shipment of meat tainted with *E. coli* O157:H7 were sold to consumers at Jack-in-the-Box restaurants, and the chain was forced to destroy another 280,000 hamburger patties. Three deaths caused by the contamination spurred Congress to hold hearings. Several other high-profile outbreaks of food-borne disease also occurred.⁴¹

³⁹ *Ibid.*, at 235.

⁴⁰ *Ibid.*, at 253.

⁴¹ *Ibid.*, at 4-10.

After President Clinton was elected, pressure mounted on the new management at the USDA to take action. In August of 1993, Michael Espy, the Clinton appointee to head the USDA, named Michael Taylor, former Food and Drug Administration Commissioner for Policy, as the head of FSIS. Unlike his pro-meat industry predecessor, Russell Cross, Taylor was in favor of improving meat safety and microbial testing. Taylor did not wait for Congress to act. He broke with long-standing official policy and classified *E. coli* O157:H7 as an adulterant, so that FSIS could regulate it and require microbial testing. This move, one of the most dramatic in USDA's history, caused an uproar in the meat industry.⁴²

Although Taylor made a concession to the industry and agreed that acid sprays could be used on carcasses before microbial testing, the industry filed a lawsuit against the USDA to stop microbial testing. However, the judge ruled in favor of the USDA.

At this point, the meat industry decided that it would not be beneficial to have a public fight over food safety. So instead of blocking changes to the inspection system, the industry put all of its efforts into influencing how it would be changed. By early 1995, the FSIS was taking comments on a new proposal for revamping the inspection system called the Hazard Analysis and Critical Control Points (HACCP), a so-called "science-based" system that establishes where dangers lurk in slaughtering and processing.⁴³

FSIS cooperated with the U.S. Army Natick Laboratories (where much of the research on food irradiation was done), and other federal agencies in developing a program of food safety for the space program. They used a system of analysis developed by Natick Laboratories called the "modes of failure" that was adopted by Pillsbury and has since evolved into the HACCP program.⁴⁴

HACCP had been promoted by the meat industry for several years, because they viewed it as a way to reduce the role of meat inspectors. The food-borne disease crisis was giving them an opportunity to push for a major change in meat inspection—a move that would further increase profits. Stuart Hardy, manager of Food and Agriculture Policy for the U.S. Chamber of Commerce, said of HACCP in a 1990 article:

Pressures are building in Congress and the Administration to harmonize the [meat inspection] system and bring it up to date with the best available science and technology....[T]he approach now gaining momentum among policymakers in Washington, D.C. and in state capitols is one of harmonizing and modernizing methods of regulations by applying "hazard analysis, critical control point"

⁴² Ibid., at 252-255.

⁴³ Ibid., at 256-258.

⁴⁴ Misty Pfeiffer and Sharon Luchsinger, *Facts: Overview of HACCP*, Des Moines: National Pork Producers Council.

(HACCP) principles uniformly throughout the entire food chain...In practice, HACCP puts most of the burden of safety assurance on industry.⁴⁵

The meat industry was maneuvering for congressional action to create a meat inspection system designed to meet industry needs. They viewed the intensity of regulation and surveillance in the meat and poultry sector as a major problem. The opportunity to repeal consumer protections, such as continuous inspection on a daily basis by federal inspectors, had been a long-time goal. Besides removing barriers to increasing line speeds, the industry also wanted to remove USDA's authority to gain access to plant records, detain shipments of food suspected of being in violation, shut down equipment, or withdraw inspection and close an entire plant (with a court order).⁴⁶

The meat industry had allies in the public interest community regarding privatization of meat inspection. Carol Tucker Foreman, a private consultant, was representing the Safe Food Coalition at that time,⁴⁷ and was a proponent of privatizing meat inspection. Foreman was quoted in a 1995 *Food Chemical News* story based on her speech to the Sparks Commodities midwinter conference in Washington, D.C., saying that Congress should "consider privatizing meat and poultry inspection" and "stop USDA from stamping each package of meat and poultry with the seal of government approval." She said that while it was unlikely that consumer groups would endorse privatization, it "may have merit."⁴⁸

The meat industry and its allies wanted any new program's emphasis to be a self-enforcement system, with a role for meat inspectors of reviewing company paperwork. Meat inspectors would be reduced to verifying that the food-borne disease controls selected by the company were working, at least on paper. In order to achieve this type of system, the industry was willing to make concessions about microbial testing.

The fact that people were continuing to get sick gave the industry momentum for some kind of change. This was especially true since the public interest community was advocating change as well—albeit a more protective system. Microbial testing was one of the additions to the meat inspection system that the public interest community demanded.

Eventually, meat inspectors and the public interest community, including GAP, Public Citizen, and others, supported HACCP as an additional level of protection along with continuous inspection, with the addition of a microbial testing program. HACCP was not intended to replace traditional inspection, but to be an additional barrier to food borne disease.

⁴⁵ Stuart B. Hardy, "Assuring a Healthy Food Supply: A Case for Fundamental Reform of Regulatory Programs," *American Review of Public Administration*, Vol. 20, #4: December 1990, at 237-238.

⁴⁶ *Ibid.*, at 232.

⁴⁷ The Safe Food Coalition is an informal group of organizations involved in issues related to food-borne disease.

⁴⁸ "Privatize Inspection, Save Money, Government Credibility: Foreman," *Food Chemical News*, Vol. 37 No. 4, March 20, 1995.

In July 1996, the Clinton administration enthusiastically announced that HACCP, along with the microbial testing program, would be adopted. They promised the American people that the new inspection system would add new protections.

At a press briefing at the Office of Management and Budget (OMB), Secretary Glickman and FSIS Administrator Michael Taylor were questioned about the program:

Q: This is all self-policing, isn't it? ... where are teeth in this? And if you're letting them all rely on themselves, why haven't they been doing it for 90 years?

SECRETARY GLICKMAN: No, no, no. First of all, they must – first of all, we have inspectors, thousands of inspectors out there in plants right now that see, feel, touch and smell to make sure that meat is safe. They have to meet safety and sanitation requirements now; those continue. They actually become stronger because they become science-based.

Q: Do these changes mean that you will no longer look and touch and smell? Or are these in addition to?

SECRETARY GLICKMAN: We will continue to –

Q: Is a strong smell ignored?

SECRETARY GLICKMAN: Okay. We will continue to look, smell, feel, and touch, because the human factor cannot be ignored from the inspection process. But it will be augmented by the science standards and made more realistic and practical and efficient. And I think, Mike, you may want to comment on that as well.

MR. TAYLOR: That current system achieves a lot of things of value to consumers: clean carcasses, eliminating diseased animals from the food supply. That's why the system was put in place. And we will absolutely remain faithful to those traditional objectives and achievements. The question, as the Secretary said, is how can we use the scientific (sic) that we have got to make it safer. That's what this is about. It's not retreating on any of traditional protections.⁴⁹

Regrettably, the meat industry's vision for HACCP, one that restricted government inspectors' authority and changed their duties from checking product to checking company paperwork, was

⁴⁹ Press Briefing by OMB Director of Communications Larry Hass, USDA Secretary Daniel Glickman, OMB Office of the Administrator of Information and Regulatory Affairs Sally Katzen, The White House Office the Press Secretary, July 6, 1996, www.pub.whitehouse.gov/uri//oma.eop.gov/us/1996/7/7/2.text.1.

the one adopted. This betrayed USDA Secretary Glickman's cornerstone public commitment that HACCP would be additive, not substitutive to continuous government inspection.⁵⁰

The meat industry was satisfied with the new meat inspection program. Gary M. Weber, director of animal health and meat inspection for the National Cattlemen's Beef Association, an industry group, demonstrated the industry's satisfaction over the outcome of the debate on revamping the system:

We're very pleased that after a 10-year struggle to redesign the meat inspection system, we're at the first stages of implementing a modern, scientific-based prevention system.⁵¹

THE MEAT INDUSTRY: A POWERFUL PLAYER

It is no surprise that the meat industry was able to shape the changes in meat inspection. In the 1990s, the public interest community was not organized for the broad-based grassroots effort necessary to establish a protective meat inspection system.

In contrast, the meat industry is extremely powerful because of its organizational structure, which is not only national but global. A handful of firms exercise an enormous amount of economic and political power and have the ability to influence decision making for the food industry. These firms develop a variety of different alliances with other players in the system through acquisitions, mergers, joint ventures, partnerships, contracts and other less formalized relationships, such as agreements. Meat production is one of the most consolidated areas of food production.⁵²

The meat industry has exerted a tremendous amount of influence over members of Congress, the administrative branch of government and the regulatory agencies. Before 1997, during the decade before the major changes were being made to the USDA inspection system, the Center for Public Integrity (CPI) reported that \$41 million had gone into the campaign coffers of Capitol Hill lawmakers. CPI documented that more than a third of the contributions went to members of the Senate and House agriculture committees. They found that the meat industry has created one of Washington's most effective influence machines, partly by recruiting federal

⁵⁰ "Glickman stressed that federal inspectors, even while supervising the scientific testing, will continue to check meat and poultry with their old-fashioned methods. . ." (*Los Angeles Times*, July 7, 1996).

⁵¹ Todd S. Purdom, "Meat Inspections Face Overhaul, First in Nearly a Century," *New York Times*, July 7, 1996.

⁵² A study prepared by Bill Heffernan (Rural Sociology Department, University of Missouri), for the National Farmers Union discusses the structure of the industry and the level of concentration. Four companies (IBP, ConAgra Beef, Cargill-Excel, and Farmland National Beef) package 79 percent of beef in the U.S. Six pork producers (Smithfield, IBP, ConAgra-Swift, Cargill-Excel, Farmland Industries, Hormel Foods) control 75 percent of pork packaging. Six companies (Tyson Foods, Gold Kist, Perdue Farms, Pilgrim's Pride, ConAgra Poultry and Wayne) control 58 percent of poultry production.

lawmakers and congressional aides. At that time, the industry's lobbying juggernaut included 124 lobbyists working for the meat industry. Of those, 28 had previously worked on Capitol Hill.⁵³

The meat industry also has powerful and well-funded trade associations that lobby Congress. They include the American Meat Institute, National Meat Association, American Association of Meat Processors, National Broiler Council, National Association of Food Processors, and the Washington, D.C. offices of ConAgra, Cargill and others. These organizations have used their political clout to shape policies dealing with every aspect of producing meat.

⁵³ CPI, *Safety Last*.

Chapter 2

Hazard Analysis and Critical Control Points: Have a Cup of Coffee and Pray?

“The good news about the new rules is industry will be allowed to control its own destiny.”

Dell Allen, vice president, Excel Corporation ⁵⁴

Despite the successful efforts of the meat industry to weaken meat inspection, the federal law still provides a safety mandate requiring that meat and poultry products be safe, free of filth, and wholesome.⁵⁵ The evidence is mounting, however, that since the introduction of HACCP, this important consumer protection is not being met.

The USDA’s Office of Inspector General (OIG) released a report in June 2000 that outlines many of the problems with HACCP. The OIG found that FSIS had not asserted its authorities under the program to ensure that its intent was met. The report went on to say:

Because FSIS was uncertain of its HACCP authorities and had not established needed procedures, it had reduced its oversight beyond what was prudent and necessary for the protection of the consumer.⁵⁶

Sadly, the OIG’s report demonstrates that the Clinton administration did not keep its promise to create a HACCP program that would become an additional protection for consumers, not a replacement for traditional meat inspection. HACCP reduced inspectors’ authority to take direct action against filth and redirected them to check company paperwork. USDA meat inspectors have nicknamed HACCP, “Have a Cup of Coffee and Pray.”⁵⁷

USDA meat inspector Dave Kroeger, president of the Midwest Council of Food Inspection Locals, sums up the situation:

By its rather asinine HACCP policies, which are unknown to the consumer and consumer groups and Congress, the FSIS administration has managed to assure that only a minute number of the actual deficiencies are recorded. A severe shortage of inspectors is one reason that only a minuscule portion of all the deficiencies in meat and poultry slaughter and processing plants has been recorded as required by law.... Inspectors are working weeks and months on

⁵⁴ “Discussing the Pros and Cons of the Mega-Reg.” *Meat & Poultry*, September 1, 1996.

⁵⁵ 9 CFR Chapter III, Section 301.2.

⁵⁶ USDA Office of Inspector General, *Food Safety and Inspection Service*.

⁵⁷ CPI, *Safety Last*, at 63.

slaughter lines, not covering their jobs while others, who are tripled on jobs, can only do cursory plant visits to plants that have the size and production to require one or more full-time inspectors for effective consumer protection.⁵⁸

SLAUGHTERING AND MEAT PROCESSING

HACCP was implemented first in the processing activities in meat plants and may soon be implemented in the most fundamental slaughtering activities in the near future, which will result in essentially a company self-inspection program. The HACCP Inspection Models Project (HIMP) discussed later in this chapter is the USDA's next step toward this goal, but its future is in question because of the federal court decision that found company self-inspection illegal. As noted earlier, the meat industry is lobbying Congress to change the meat inspection laws and make company self-inspection legal.

Seemingly, no official definition exists for the distinction between slaughtering and meat processing plants, but the difference is understood by those in the meat industry. Slaughter includes killing, eviscerating, skinning, cleaning and in the case of livestock, splitting the carcass in half. Poultry is left whole. The last step of slaughter is "chilling."⁵⁹ For livestock this means refrigerating in the cooler, sometimes known as the "hot box." The method for chilling poultry is to soak it in cold water, which is a very controversial process because it adds water weight and is essentially a fecal bath.⁶⁰

Meat processing plants work on the carcasses after they leave the chiller. Typically, these plants receive the half carcasses (beef, swine, sheep) or the whole chickens and further process them for consumption. Some facilities do slaughtering and processing in different parts of the same plant.

Unfortunately, a tremendous amount of confusion exists about inspectors' authority in slaughterhouses. Today, slaughter plants are already required to have HACCP plans in place, along with Sanitation Standards Operating Plans (SSOP) for controlling dirty plants and equipment. But, meat inspectors still have authority to inspect carcasses all along the slaughter line.

⁵⁸ A Message From Dave Kroeger, President, Midwest Council of Food Inspection Locals, *HACCP- Is It Successful?* www.the-inspector.com/kroger4.shtml, 6/2/00.

⁵⁹ Conversation with Ron McDaniel, processing staff officer, USDA Technical Center in Omaha, Nebraska.

⁶⁰ The cold water bath for poultry was approved during the tenure of Carter appointee, Carol Tucker Foreman as Undersecretary at the USDA. She has said publicly that she regrets the decision. The beef industry is very opposed to this process because it adds water weight to chicken and gives the poultry industry an economic edge.

FSIS Tech Center personnel, who give policy guidance and answer questions of inspectors on the job, are confused about the nature of HACCP at slaughter plants. This sets the stage for confusion at plants about the nature of meat inspectors' authority.⁶¹

HACCP IMPLEMENTATION IN MEAT PROCESSING

According to FSIS, “ Under traditional inspection [application of USDA’s seal of approval] was based on inspectors examining products to catch evidence of contamination” whereas “[u]nder the new system, [the seal is based on] a plant’s ability to control processes.”⁶²

USDA implemented HACCP in meat processing plants over a four-year period from January 1997 through January 2000. The agency’s first step was to reduce inspectors’ authority over sanitation and to turn sanitation control over to company employees in all slaughterhouses and processing plants. Then, between January 1998 and January 2000, depending on the size of the plant, it phased in a reduction in inspector authority and turned controls over to company employees for processing activities in all plants nationwide.⁶³

Prior to HACCP, inspectors physically examined meat, assessed contamination through sampling, and made a limited review of company records to insure that safety regulations were being met before product was eligible for the USDA seal. When company records differed from inspector findings, inspectors had authority to investigate the discrepancies. When contaminated products, unsanitary conditions, or other safety hazards were found, inspectors could protect consumers by immediately demanding that the product be condemned or trimmed. Inspectors could also require other corrective actions, such as sanitizing filthy areas of a plant.

SANITATION

In January 1997 all slaughterhouses and meat processing plants were required to develop a written Sanitation Standard Operating Procedure (SSOP) describing “all procedures it conducts daily to ensure effective sanitation, both before and during operations.”⁶⁴

⁶¹ On August 21-22, 2000 calls were made to the FSIS Tech Center about HACCP in slaughtering facilities and the role of SSOP plans. Two different processing staff officers gave two different explanations. One said that while HACCP and SSOP plans are required in slaughtering plants, inspectors still meet “certain performance standards that are set by the government.” Another processing staff officer said almost the opposite. He claimed that HACCP is in slaughter and meat processing and that there are few differences.

⁶² Ibid.

⁶³ The agency implemented HACCP in large plants in 1998, small plants in 1999, and very small plants in 2000 (FSIS, *Pathogen Reduction and HACCP Systems...and Beyond: The New Regulatory Approach for Meat and Poultry Safety* (Backgrounder), January 1998; Slightly Revised May 1998, www.fsis.usda.gov/oa/background/bkbeyond.htm).

⁶⁴ Ibid.

Confusion reigns about the meaning of SSOP plans in slaughtering facilities. According to the Tech Center, slaughter plants have sanitation plans, but inspectors have more of a role in approving pre-operating conditions at plants. For instance, one day they may look at a performance standard, but the next day they may just look at company records to ensure that sanitation requirements were met.⁶⁵

Prior to implementation of this first component of HACCP in meat processing, a daily “pre-op” sanitation inspection and approval was a prerequisite to beginning production. If inspectors found sanitation problems, such as rotting meat residues on grinders or rodent droppings on the floor, they could investigate further until they were confident that the plant was clean enough to begin operations.⁶⁶ Inspectors could require that surfaces in the plant or on equipment that did not have direct contact with meat, but in the opinion of the inspector could present a food safety hazard to the product, were cleaned before operations began. After HACCP’s implementation, however, the frequency of inspection was reduced to less than daily, sometimes once or twice per week and inspection was limited only to product contact surfaces or direct product contamination.

Moreover, prior to HACCP, inspectors had authority during all operating hours to require immediate compliance with sanitation regulations throughout the plant and in outside areas that might present a hazard to the operations inside the processing facility. Since HACCP began, inspectors can only demand immediate clean-up on product contact surfaces. If walls, floors, or ceilings are filthy, inspectors can only document the problem, even though filthy surroundings can be a perfect breeding ground for deadly pathogens such as listeria.

The following excerpts from government reports at one slaughter plant indicate the types of problems that occur as a result of decreasing federal inspectors’ authority over sanitation:

- “Excess number of carcasses (up to 50%) presented for inspection . . . with feces, bile, hair . . . Problem continued throughout entire shift despite inspectors notifying line supervisor and general foreman.”⁶⁷
- “Product in packaging area piled up on belts & equipment falling onto floor. Product was observed on floor in packaging area with no one making an attempt to pick it up.” [The establishment was issued similar citations 12 times in the same area in less than four months.]⁶⁸

⁶⁵ Conversation with Tech Center staff on August 22, 2000.

⁶⁶ See Government Accountability Project, *Fighting Filth On The Kill Floor: A Matter of Life and Death for American Families*, Washington, DC, November 9, 1995, www.whistleblower.org.

⁶⁷ Process Deficiency Record #4-97S, Establishment 114. Swift Independent Packing Co., Garden City, Kansas, February 4, 1997.

⁶⁸ Process Deficiency Record #164/97, Establishment 114. Swift Independent Packing Co., Garden City, Kansas, June 2, 1997.

- “Fetus cart leaking and splashing amniotic fluid through edible product movement traffic area....”⁶⁹
- “Floors around & under VMO [government Veterinary Medical Officer] disposition platform littered with trim scraps & fat. Walkway to VMO disposition area & hot scale area very slick with excessive blood & fat scraps.”⁷⁰
- “Bile collectors tank leaking, viscera table workers standing on bile contaminated floor...”⁷¹
- “Blood plasma [equipment] left stream of water mixed with blood [on floor].”⁷²
- “... approximately 12-16 pieces of product in meat wash sink in loose meat area. Employee making an attempt to wash product 1 piece after another without washing sink or sanitizing after each piece. After washing product was laying them in hand wash sink...”

HACCP IN THE PLANTS

From January 1997 through January 2000, HACCP and the changes made to sanitation regulations were implemented in all plants that process meat or poultry.⁷³ As mentioned above, processing plants are those that further process slaughtered whole or half carcasses once they have been cooled or chilled.

In contrast to the pre-1997 system of meat inspection,⁷⁴ under HACCP, meat inspectors’ focus is now at points established by the companies themselves. The premise of the new system is that the meat industry will determine where the food safety hazards are during meat processing and address problems at those “critical control points.” Once the plant establishes these critical control points, it then establishes monitoring requirements and corrective actions to be taken when monitoring indicates there is a problem. The plant also establishes a record-keeping procedure that documents how the HACCP plan is working.⁷⁵

Prior to HACCP, inspectors monitored plants according to over 400 specified tasks, such as inspecting for signs of insects and rodents, checking that required processing temperatures were being met, and that materials such as incoming raw meat is “wholesome, properly identified, and

⁶⁹ Process Deficiency Record #74-97, Establishment 114. Swift Independent Packing Co., Garden City, Kansas, June 2, 1997.

⁷⁰ Process Deficiency Record #9197, Establishment 114. Swift Independent Packing Co., Garden City, Kansas, June 2, 1997.

⁷¹ Process Deficiency Record #15597, Establishment 114. Swift Independent Packing Co., Garden City, Kansas, June 2, 1997.

⁷² Process Deficiency Record #15897, Establishment 114. Swift Independent Packing Co., Garden City, Kansas, June 2, 1997.

⁷³ FSIS, *Pathogen Reduction*.

⁷⁴ The new system was announced in 1996, but implementation began in 1997.

⁷⁵ FSIS, *Pathogen Reduction*.

not adulterated or contaminated throughout processing and storage.” If contaminated product was found, inspectors had authority to immediately require corrective action.⁷⁶

Although FSIS says that plants still have to meet all regulations, plants can limit the inspectors’ efforts to check for such compliance. HACCP largely limits inspectors to examining areas that plants have chosen as places to control hazards or, more likely, checking company paperwork about how well the company says it is performing at these points. The OIG found that many companies have established a bare minimum number of critical control points, sometimes only one or two, which severely limits government oversight.

Probably the most disturbing curtailment of inspection authority is that even when they see filth or contamination, inspectors cannot take immediate action to prevent adulterated products from reaching consumers. They are instructed instead to “let the system work.”

For instance, under HACCP, when a meat inspector spots fecal contamination on meat or poultry moving on the line, he/she is prohibited from requiring its removal until it passes all of the company’s critical control points. Inspectors are prohibited from following the contaminated meat and ensuring that contamination is removed as it moves down the line to be further processed. Consumer protection is further impeded because inspectors are rarely present at points past all critical control points and must rely on company pre-shipment records to determine if any contaminated meat has been shipped.

Companies can further thwart inspectors by designating a critical control point that makes it extremely difficult for the inspector to check if contamination has been removed. For instance, a company can designate as the final critical control point a location that is in a warehouse located miles away from the plant. Or, when an inspector suspects that contaminated product may have been packaged, he must guess which one contains contaminated meat in a warehouse with thousands of packages. In the future, the meat industry is likely to designate critical control points at irradiation facilities, which could be located hundreds of miles away from the plant. This will likely mean that rather than removing all traces of fecal matter, that feces contaminated meat will go through a sterilization process.

THE AGENCY’S RELIANCE ON TECHNOLOGICAL FIXES

Instead of using microbial tests to ensure that meat and poultry is produced in a clean and wholesome manner, the agency’s HACCP implementation unnecessarily relies on technological interventions, such as irradiation and chemical rinses.⁷⁷ These interventions, which sterilize fecal

⁷⁶ FSIS, Inspection System Guide, Inspection Task 06L04a2, December 1993, at 6-46.

⁷⁷ Tom Billy, administrator of the Food Safety and Inspection Service, said “that replacement of current inspection requirements with new performance standards for microbiologic safety will provide incentives for meat and poultry plants to make technical innovations” (Steven Clapp, “Taking Aim: USDA Declares Open Season on Pathogens,” *Meat and Poultry*, October 1, 1998).

matter, will become the norm as more producers follow the agency's lead toward technological fixes. They are used in both slaughtering and meat processing. According to the *Meat and Poultry Magazine's* web site:

FSIS urges companies to consider implementing the approved technologies. Antimicrobial treatments include washes or sprays that use either hot water or a solution of water and a substance approved by FSIS for that use. Substances like lactic, acetic and citric acids, trisodium phosphate and chlorine are all approved.⁷⁸

The agency creates regulatory perks for companies using such fixes. For example, the use of trisodium phosphate (TSP) provides the increasing number of plants that use it with the following competitive advantages:

- carcasses covered with feces are no longer required to be diverted and reworked off-line by employees; instead they may remain on the line and are rinsed with chemical sprays. Plants, thereby, save on wages and can maintain higher line-speeds.⁷⁹
- TSP changes the color and consistency of fecal matter, so that it no longer meets the official definition of "feces." This means that less poultry with visible fecal material remaining on the carcass is condemned and regulatory action is not triggered.⁸⁰ Instead this meat may be sold to consumers.

Probably the greatest incentive for sterilizing filth is that low salmonella counts are used as "proof" by the agency and the companies using them that HACCP in general, or a particular company's HACCP system, is working. Furthermore, plants can pass salmonella tests and simultaneously produce meat or poultry heavily contaminated with listeria, toxic chemicals or ground glass.

But, by authorizing the use of chemicals to wash away vast amounts of fecal contamination that result from the sloppiest slaughtering methods, the agency violates its own claims that HACCP is about "hav[ing] industry implement systems that prevent food safety problems" and that agency changes were necessary to address "invisible hazards such as pathogenic microorganisms."⁸¹

⁷⁸ "HACCP Information-Bug Patrol," *Meat & Poultry*, www.meatpoultry.com/haccp/bugpatrol.htm.

⁷⁹ "For inspectors working the line, the greatest change to the inspection procedure is to allow [fecal] contaminated carcasses to remain on the line" (FSIS TSP Orientation Packet for On-Line Reprocessing, at 3).

⁸⁰ For the new definition of feces that triggers regulatory actions including trimming, investigation of HACCP processes in the plant, and recheck of other carcasses, see FSIS Directive 6420.1, "Livestock Post-Mortem Inspection Activities-Enforcing the Zero Tolerances for Fecal Material, Ingesta, and Milk," December 17, 1998; and FSIS Directive 6150.1 Rev. 1, Poultry Post-Mortem Inspection and Reinspection – Enforcing the Zero Tolerance for Visible Fecal Material, June 19, 1998.

⁸¹ FSIS, *Pathogen Reduction*.

Dr. Amy Waldroup, professor in the Department of Poultry Science at the University of Arkansas, concludes that lowered salmonella rates are due not to HACCP, but to the fact that the industry has more than doubled the chlorine in water used to rinse and/or soak chickens, and levels of residual chlorine in chill tanks, formerly at zero, are now at .5-1 parts per million (ppm). As Richard Lobb, communications director at the National Chicken Council, says, “Right now, poultry processors are going with what they know works: “chlorine...”⁸²

It is apparent that unless consumers vigorously reject the government’s acceptance of increasing amounts of sterilized feces in food, this situation will worsen and become the norm. In 1997, the agency had already proposed to decrease the number of checks for fecal contamination if plants meet the salmonella standards.⁸³ And the market will not likely discourage the production of even large amounts of sterilized feces because consumers are purchasing more and more prepared and pre-cooked meat and poultry products, which can easily hide filth present on the raw ingredients.⁸⁴

Besides increasing the unappetizing prospect of sanitized feces sold as food, technological fixes present other problems as well. Chemical interventions may reduce bacterial loads but may also threaten public health, create environmental nightmares, and present worker safety issues.

- Studies show an association of certain cancers with consumption of chlorinated drinking water.⁸⁵
- Wastewater pollution from processing plants has already contaminated a high percentage of the nation’s rivers, lakes and estuaries,⁸⁶ and TSP triples the wastewater pollution coming from any plant that uses it.⁸⁷
- Lengthy exposure to TSP can results in dryness of the skin and possibly dermatitis.⁸⁸

⁸² Rebecca Gants, “Closer Inspection: The Poultry Industry Tries to Wash Away Its Troubles,” *Meat & Poultry*, December 1, 1998.

⁸³ FSIS, “What Will Be the Next Steps RE: Zero Tolerance.” Washington, DC, December 1997, www.fsis.usda.gov/oa/haccp/issue03.htm.

⁸⁴ Gants, “Closer Inspection.”

⁸⁵ Environmental Protection Agency, Office of Air Quality, Planning and Standards. “Chlorine.” Document 7782.50-5, www.epa.gov/ttn/uatw/hlthef/chlorine.html.

⁸⁶ “By EPA estimates, 40 percent of the nation’s rivers, 51 percent of the lakes and 57 percent of the estuaries have been adversely affected by nutrient over- enrichment. The goal is for all states to adopt EPA nutrient criteria, which will affect commercial wastewater permits, by the end of 2003” (“Nutrient Removal: Political pressure is increasing on the poultry industry to reduce this wastewater pollutant,” *Meat and Poultry*, August 1, 1999).

⁸⁷ “Further complicating the issue of nutrient removal is the poultry industry’s increased use of tri-sodium phosphate,. . . “The typical poultry plant has 15 mg per liter to 20 mg per liter of phosphorus in its wastewater,” says the engineer. “The use of T.S.P. triples that level of phosphorus and triples the cost of removal” (Ibid.).

⁸⁸ TSP Orientation Packet for On-Line Reprocessing, p 3. [Instructions for Inspectors, received per request from FSIS’s Tech Center. April 25, 2000.

FOOD IRRADIATION: THE SILVER BULLET

With the recent approval of irradiation for use in fresh meat products, no discussion of microbial intervention methods would be complete without mentioning this technology. Food irradiation is a particularly controversial intervention. Until the 1990s it was promoted primarily to increase shelf-life. More recently, government officials and the food industry have embraced the use of the equivalent of tens of millions of x-rays to “sanitize” food products, despite the fact that no long-term studies have been done on the health effects.

Moreover, experiments conducted over the past half-century at universities and research institutions throughout the world have revealed that lab animals fed irradiated food have suffered premature death, tumors, reproductive and immune problems, liver and kidney dysfunction, low birth weight, and chromosomal damage. Most research on the toxicological effects of irradiation dates from before 1980.⁸⁹

Bombarding food with large amounts of radiation destroys vitamins and creates chemical changes in food. As the radiation zips through cells, knocking some electrons out of orbit, chemical bonds are broken. Left behind is a very reactive trail of free radicals. As they crash into each other, new and unnamed chemicals, called radiolytic products are created. These can include carcinogenic chemicals such as formaldehyde and benzene.⁹⁰

Unfortunately, the Food and Drug Administration (FDA), the agency with the largest responsible for certifying the safety of irradiated foods, has ignored these concerns. For instance, the agency cited only 7 of more than 400 scientific studies to determine that irradiated food is safe to eat. In these seven studies researchers either used doses of radiation at or far below levels ultimately approved by the FDA or added nutrients to the diets of lab animals to offset the harmful effects of irradiation. Four of the seven studies have never been published in peer-reviewed journals and three of them have never been translated into English.

Nevertheless, the benefits of irradiation are being widely promoted as a silver bullet for food-borne disease. As the following article from a trade journal demonstrates:

With the recent approval of irradiation for use in fresh meat products, no discussion of microbial intervention methods would be complete without mentioning this technology. Drawbacks to irradiation include initial cost, the

⁸⁹ These studies summarize many of the health problems associated with feeding lab animals irradiated food: P.C. Kesavan and M.S. Swaminathan, “Cytotoxic and mutagenic effects of irradiated substrates and food material.” *Radiation Botany*, 11:253-281, 1971; J. Schubert, “Mutagenicity and cytotoxicity of irradiated foods and food components,” *Bulletin of the World Health Organization*, 41:873-904, 1969; A.T. Spiher, Jr., “Food Irradiation: An FDA Report.” *FDA Papers*, October 1968.

⁹⁰ See a summary of the problems related to food irradiation and a list of citations in Public Citizen, *A Citizen's Guide to Fighting Food Irradiation*, Washington, DC, July 2000, www.citizen.org

need to tightly control the process to prevent off-flavors and off-odors and consumer acceptance.

The advantages of irradiation are that, when used properly, all microbes of concern are reduced or eliminated, and product changes are negligible.... Irradiation for the near term seems to be the closest to a silver bullet available.⁹¹

MICROBIAL TESTING

The agency adopted systematic government and company microbial testing as an adjunct to HACCP as a method of assessing the meat company's "controls" for contamination.⁹² This was widely supported by the consumer community and long sought by the federal inspectors. While some gains seem to have been made in this area, many of the accomplishments of the current microbial testing program that are touted by FSIS and the industry are exaggerated. The limits of microbial testing are almost never discussed in public policy debates about meat inspection.

Larry Borchardt, senior scientific adviser to the American Meat Institute Foundation, said in 1996 when HACCP and the microbial testing program were introduced, "[d]on't look at microbial testing protocol as bad...For the first time we have a standardized program for microbial control and the potential to improve the industry's image."⁹³

Unfortunately, the microbial testing has turned out to be inadequate and minimal in scope. Government testing for salmonella is limited, sporadic, and poorly administered. Consumers continue to eat contaminated meat from plants that have repeatedly failed government tests, months after the USDA becomes aware of the problem. Company testing is an industry honor system, with inspectors rarely, if ever overseeing tests or seeing lab results.

In May 2000, a judge ruled in Texas that the USDA could not close a plant that had repeatedly failed microbial testing. Although this case only prohibits government enforcement action based on testing in part of Texas, it could have implications for the entire testing program.

PRIVATIZATION OF MEAT INSPECTION

The ultimate goal of the meat industry and its allies at the USDA is to privatize meat inspection. This self-inspection system is being implemented by moving HACCP into slaughtering. In 1990, Stuart Hardy of the U.S. Chamber of Commerce put it bluntly:

⁹¹ *Meat & Poultry*, www.meatpoultry.com/sitsea...h_features_art.asp?ArticleID=30864.

⁹² The new regulations are entitled "Pathogen Reduction: Hazard Analysis and Critical Control Point (HACCP) Systems: Final Rule," www.fsis.usda.gov/oa/fr/haccp_rule.htm.

⁹³ *Meat & Poultry*, www.meatpoultry.com/sitsea...h_features_art.asp?ArticleID=17980.

“Their [meat inspector’s] role is no longer to inspect individual food products but rather to verify the effective design and operation of the total safety assurance program. Inspectors must move beyond the traditional adversarial posture....⁹⁴

The first step in moving HACCP into fundamental slaughtering inspection activities⁹⁵ is FSIS’ establishment of the pilot self-inspection program, the HACCP Inspection Models Project (HIMP), at approximately 26 plants. This program allows company employees, not federal inspectors, to examine the birds or livestock before and after slaughter. Until a recent court case challenged the legality of this privatized meat inspection program, the USDA had planned to begin a rulemaking that would have moved HACCP into slaughtering facilities, thus allowing the self-inspection by the meat industry.

Under this new system, which is operating in some plants, government inspectors no longer inspect each carcass during slaughter to insure the removal of filth and disease as a prerequisite to receiving the USDA stamp of approval.

Consumers are unable to verify that self-inspection is ensuring clean and wholesome meat. Unlike government inspection records, privatized corporate inspection records are not be available to the public under the Freedom of Information Act. Furthermore, standards have been reduced for some conditions including cancers, lesions, ingesta (pre-fecal contamination), feathers, and organ remnants.⁹⁶

There are no requirements for companies to train company “inspectors.” Unlike government inspectors, company inspectors can and have been fired for slowing down slaughterlines. Already major problems with filth and contamination have been documented at the HIMP plants. Soon after the pilot project began, whistleblowers reported an increase in diseased and contaminated meat being shipped to consumers from plants participating in the self-inspection project. Although the pilot project has been underway since October 1999, the USDA has refused to share data about the company-inspected meat.

An incident in February 2000 dramatizes the problem with putting the meat industry in charge of its own inspection program. Two Gold Kist chicken processing plants are located in close proximity in the Guntersville, Alabama area. One of the plants, which slaughters 91 birds per minute, operates under HACCP and bird-by-bird inspection, and still has meat inspectors on-site. The other plant, which slaughters birds at up to 170 birds per minute, is participating in HIMP, and has company employees “inspecting” meat. Diseased chickens with tumors, sores and oozing pus were brought to the plant with meat inspectors, and the inspectors slowed the slaughter line to ensure that contamination and disease were removed. Because multiple truck

⁹⁴ Hardy, “Assuring a Healthy Food Supply” at 239.

⁹⁵ Examining carcasses for fecal contamination, diseases, tumors, pus, cancer, sores, scabs, etc.

⁹⁶ FSIS, “HACCP-Based Inspection Models Project: Diseases and Conditions Observable in Meat and Poultry,” July 22, 1998, www.fsis.usda.gov/oa/haccp/fsocp.htm.

loads of birds could not be slaughtered at this plant, they were taken to the HIMP plant, slaughtered speedily and sent to the USDA school lunch program.⁹⁷

Fortunately, as stated earlier, the courts have found this situation to be illegal. On June 30, 2000, the Circuit Court of Appeals for the District of Columbia determined that federal meat inspectors cannot fulfill their statutory duty to inspect meat and poultry inspection by watching others perform the task. Judge A. Raymond Randolph made an excellent analogy to meat inspectors watching company employees “inspect” meat. He said, “[one] might as well say that umpires are pitchers because they carefully watch others throw baseballs.”⁹⁸

The court’s ruling clearly challenges the federal government’s abandonment of federal inspection. The court states, “[t]o the extent federal employees are doing any systematic inspecting under the Models Project, they are inspecting people not carcasses. Delegating the task of inspecting carcasses to plant employees violates the clear mandates of [federal law]. . . .”⁹⁹

Alas, it is unlikely that the meat industry will give up on self-inspection. Even now, industry lobbyists are agitating for a change in federal law that will allow the privatization of meat inspection. Meanwhile, it is time for the public to wake up to the situation and demand safe and wholesome meat.

⁹⁷ Elliot Jaspin, “Agriculture Department Refuses to Immediately Release Chicken Inspection Records,” *Cox News Service*, Washington, DC, February 21, 2000.

⁹⁸ *American Federation of Government Employees, AFL-CIO, et al. Appellants v. Daniel R. Glickman, Secretary of the U.S. Department of Agriculture, et. al., Appellees*, U.S. Court of Appeals for the District of Columbia Circuit, June 30, 2000, No. 99-53-20.

⁹⁹ *Ibid.*

Chapter 3

Methodology: Survey of Federal Meat and Poultry Inspectors

“Feces is tolerated. Sores and scabs are tolerated as long as they’re small enough to put in a frying pan. Operational sanitation has been lowered.”¹⁰⁰

The survey of federal meat and poultry inspectors who had HACCP training and worked in plants that had implemented HACCP was designed by the Government Accountability Project. The questions were based on numerous reports GAP had received from whistleblowers throughout the country since HACCP was first implemented. Some modifications were made to the draft survey, based on suggestions of federal inspectors who reviewed the initial questions.

Whistleblower reports received by GAP, strongly suggested that the agency’s reports on HACCP were biased, inaccurate, and devoid of information about problems with the system. Consequently, the survey was mailed with a cover letter strongly encouraging inspectors to assist in attempting to “paint a very clear picture for the American public about what HACCP has meant on the frontlines.” To counter possible inspector reluctance to complete such a lengthy questionnaire, inspectors with time constraints were told to report on the issues that concerned them the most. This resulted in not every question being answered by each inspector. Therefore, not every question was answered by each inspector.

The questionnaire inquired into the following areas:

- Effectiveness of FSIS inspection procedures under HACCP;
- Factors that limit inspection effectiveness;
- Problems with the design and administration of HACCP;
- Employee whistleblowing;
- Increased inspection of paperwork under HACCP;
- The impact of staffing shortages on HACCP’s implementation; and

¹⁰⁰ Survey #229.

- Policy confusion caused by FSIS' management of the HACCP program.

DISTRIBUTION

The final version, a 14-page survey with 114 questions, was distributed in late June 1999 to the presidents of each of the eight regions that comprise the National Joint Council of Food Inspection Locals, the union representing federal meat and poultry workers. GAP mailed each regional president an identical package instructing him to distribute the survey, either directly or through local presidents, to all HACCP inspectors in his region. Responses received from inspectors who were not HACCP trained or had not worked in a HACCP plant were excluded from the analysis.

Each regional president (and local president, if distribution efforts involved them) had the opportunity to add their own appeal for participation. Some cover letters from regional presidents encouraged inspectors to fill out the survey to help demonstrate the importance of their jobs. All regional presidents sent out at least one, and some sent more than one, follow-up request or reminder for inspectors to share their experiences. Surveys were mailed directly back to GAP. We stopped accepting surveys into the study in November 1999.

We thank the National Joint Council of Food Inspection Locals for their extra efforts to disseminate the survey. In particular, we would like to thank Chairman Delmer Jones and regional presidents Arthur Hughes, Paul Johnson, Randy Wurtele, James Vernon, Richard Wolff, and Eldon Sharpley, and HIMP liaison Alvin Sewell.

RESPONSE RATE

We received 550 surveys from about 2,340 inspectors who were asked to respond to the survey. FSIS estimated that there were 3,850 HACCP-trained inspectors as of 1999.¹⁰¹ We omitted 99 surveys that were filled out by inspectors who were not HACCP-trained or working in a HACCP plant. Table 1 shows responses by region.

We know that response rates were not uniform between the regions because we received only 1 response from the Northern Region, which we excluded because it was likely atypical (the Northern Regional president reported that he followed the same distribution procedure as other presidents and issued two reminders to inspectors).

We conclude that while regional or local efforts likely had some influence, other factors significantly influenced regional response rates. We have insufficient information to hypothesize the reasons for differing regional response rates. One factor that clearly seems to have lowered response rates was the length of the survey.

¹⁰¹ Conversation with FSIS, August 29, 2000.

Therefore, we cannot determine what percent of HACCP inspectors our pool of 451 responses comprises.

National Joint Council Regions	Number of Surveys Sent	Number of Respondents^a	Percent of Respondents
Northeast	580	105	23%
Southern	270	136	30%
Midwest	180	63	14%
Western	453	67	15%
Northcentral	175	25	6%
Southwest	57	39	9%
Midatlantic	450	16	4%
<i>Total</i>	<i>2,340^c</i>	<i>451</i>	<i>100%^b</i>
Northern (omitted)	175	1	

a. Ninety-nine surveys were returned by inspectors who were not HACCP-trained or who did not work in a HACCP plant. These surveys were omitted from the analysis.
b. Numbers do not add to 100% due to rounding.
c. Total number of surveys sent includes the 175 surveys sent to the Northern region.

Responses were entered into a Microsoft Access database and tabulated by Michael E. Jones, MS during the summer of 2000. Results were analyzed by Felicia Nestor, Tom Devine, and Chris Chandler of the Government Accountability Project and Wenonah Hauter, Peter Lurie, and Sid Wolfe of Public Citizen. Assistance with research was also provided by Erin Moore of GAP, as well as Tony Corbo, Joan Coyle, Mark Worth, and Charlie Higley of Public Citizen.

Chapter 4

Results: Survey of Federal Meat and Poultry Inspectors

The surveys of meat inspectors reveal that our nation's meat inspection program is breaking down and must be reexamined. The meat inspectors who responded to the survey were responsible for ensuring the safety of a large percentage of the nation's meat supply. Some surveyed inspectors work in plants that process as much as one-half million pounds of meat per day.

The numbers of inspectors reporting problems is extremely significant because it indicates the sheer magnitude of the problems with the inspection program. For instance, consumers would find it unacceptable for even one inspector to report that he/she regularly sees fecal contamination on meat. Yet, many such instances are cited in this report, and since the survey only represents a portion of the nation's inspectors, even these occurrences very likely understate the problems.

FORM OF SURVEY RESULTS

Results are first reported as the number of inspectors who reported particular events or opinions. This number is followed by bracketed information representing the percentage of inspectors out of the total number of inspectors who responded to that particular question. In the case of questions for which fewer respondents were eligible, due to their response to a prior question, the number of possible respondents is given, along with the percentages.

Quantitative results are followed by inspectors' responses to open-ended questions in the survey. These comments are representative of the comments we received from HACCP inspectors and line inspectors working under the HACCP system.

In most sections, relevant conclusions from the June 2000 report of the USDA's Office of Inspector General (OIG) are also referenced.¹⁰² (See Chapter 2 for more discussion of the report.) The OIG reviewed the changes in inspection brought about by the FSIS's HACCP implementation. The report involved document reviews, interviews with government managers, food officials and a limited number of government inspectors in 15 plants throughout the nation. We were unaware of their focus and activities, and as far as we know, they were unaware of our survey. Despite the independence of the two efforts to assess HACCP, and the different methodologies employed, the findings of the OIG report and our survey of inspectors are very similar.

¹⁰² USDA Office of Inspector General, *Food Safety and Inspection Service.*"

SECTION A: AMERICANS ARE EATING DIRTY MEAT

Although the FSIS has a policy of zero tolerance for fecal matter, the survey of inspectors clearly shows that such contamination is occurring. Other contaminants, such as ingesta (vomit), scabs, urine, pus, hair, feathers, rust, and metal shards are also adulterating meat, despite the fact that they are not supposed to be present.

The new regulations envision that inspectors will take corrective action when the meat product becomes contaminated by verifying that plants honor their HACCP commitments. Instructions to inspectors, however, thwart this process. The most effective way to verify that plants discover and correct contamination would be to follow the contaminated product down the line. Agency policy prohibits this and instead instructs inspectors to check suspected contaminated meat only after it has passed all the company's critical control points to confirm that contamination has been removed.

In one large processing plant this meant that when the inspector saw fecal-contaminated product on the line and suspected that contamination was not caught by the plant, he had to later enter a warehouse with over 40,000 boxes of meat sealed in cryovac packages, guess where the contaminated meat might be and ask the company to open these boxes. It is also less likely that inspectors will find contaminated meat after it passes all critical control points because employee handling or processes on the line, such as grinding, can spread contamination so that it is no longer visible, but still may be dangerous to consumers.

Survey Results

- 210 inspectors (64% of 327 responding) indicated that since HACCP began at their plant, there have been instances when they have not taken direct action against contamination they observed, which they would have taken under the previous system.
- 125 inspectors (33% of 302 responding) reported that based on pre-HACCP standards, half of the currently occurring contamination would have been classified as “certain to be adulterated, misbranded or mislabeled, certain to reach consumers and certain to have a detrimental effect upon consumers.”¹⁰³
- Table 2 shows the number of the 206 responding inspectors who allowed the identified contaminants to continue down the processing lines, as per HACCP protocol, instead of

¹⁰³ Established by the former inspection system, the “Deficiency Classification Guide” (FSIS Directive 8820.1, Rev. 2, Attachment 1).

requiring corrective action. The table also describes the frequencies with which each type of contamination occurs.

Table 2. Number of Inspectors Reporting Occurrences of Food Contamination.

Contaminant	No. of Inspectors Reporting Contamination After HACCP Implementation	No. of Inspectors Reporting Daily Contamination	No. of Inspectors Reporting Weekly Contamination
Feces	84 (41%)	36 (44%)	26 (32%)
Ingesta (vomit)	82 (40%)	45 (56%)	22 (28%)
Oil/Grease	111 (54%)	28 (26%)	40 (37%)
Hair/Feathers	62 (30%)	37 (61%)	15 (25%)
Other*	121 (59%)	31 (28%)	45 (40%)

* "Other" includes condensation, residue, rust, metal, and product left on the floor.

- 197 inspectors (50% of 391 responding) said that they have been instructed to check further down the line to ensure that the system caught contamination the inspector had observed earlier on the line, but had been prohibited from having it removed while 169 inspectors (43%) have not been so instructed. (see section on HACCP training infra.)
- 224 inspectors (67% of 336 responding) of those that have the discretion said they do not have the time to directly confirm that the plant caught the contamination.
- Companies under HACCP are required to monitor products at critical control points, take all actions necessary to meet the regulations, and document what corrective actions were taken whenever contamination is caught.¹⁰⁴ However, inspectors reported that when they checked, they found company documentation of contamination they had seen, as shown in Table 3.

Table 3. Percentage of Time Observed Contamination Was Recorded in Company Records.

Percentage of Time Observed Contamination Was Recorded in Company Records	Number of Respondents	Percent of Respondents
Never	43	11%
Less than 25% of the time	101	27%
25% of the time	33	9%
50% of the time	56	15%
75% of the time	73	19%
100% of time	32	9%
Don't know	41	11%
<i>Total</i>	<i>379</i>	<i>100%*</i>

¹⁰⁴ "Next, the plant establishes monitoring requirements for each CCP and corrective actions to be taken when monitoring indicates there is a deviation from an established critical limit. Examples of corrective actions are adjusting the process, holding and destroying all product if it cannot be brought into compliance, and developing an alternative process. The plant must also establish record keeping procedures that document the operation of the HACCP system and verify that controls are working as intended" (FSIS, *Pathogen Reduction*).

* Numbers do not add to 100% due to rounding.

Inspectors' Comments

- “No actions taken on zero tolerance of fecal from the circuit or district managers.” (#4)
- “I will not buy inspected product—only what I raise. I do not eat out, and I don’t allow my children to eat at school. We didn’t used to have to put warning labels on product ‘safe handling’—but we do now. This is just a politically correct way of saying, ‘cook good—this product may contain fecal material and other poor sanitary handling bacterias [sic].’ I was told by a supervisor some time back that if you cook a piece of [feces] to 170 degrees you can eat it and it won’t hurt you. But I don’t really think the consumer is aware of the [feces] they are being fed.” (#333)
- “Failed to call feces because it was inconclusive.” (#231)
- “Fecal failures due to intestines being attached after final washer. This has happened approximately 20 or more times. (#239)
- “In training it was zero tolerance. Now it’s nearly zero tolerance.” (#42)
- “Found fecal contamination in racking area on RTC parts. Found several gut attachments at postchill containing fecal matter, tech center says if feces is not on the carcass—outside the gut—it cannot be classified as ‘0’ tolerance non-compliance.” (#10)
- “I have now been advised that shipment of “Questionable” product is acceptable...” (#503)
- “Was told by [FSIS manager] that there would never be a system failure even if a consumer found fecal [material] in plant packed pieces of meat!” (#253)
- “Kidney [and] sex glands in young chickens allowed in wieners. Zero tolerance—if you can dilute feces, then it’ll work. If you can put it in a pan and fry it, then that’ll work too.” (#229)
- “Air sac[culitis] I.P., sores going into chiller without plant taking action, reducing line speed, etc.” (#2)
- “On a daily basis, when doing checks for fecal contamination, I find ingesta [vomit] on the inside of birds. Production doesn’t have to take any corrective action for ingesta because it is not considered a safety hazard even though it is digestive track content.” (#34)

- “I would not eat meat that had not been inspected at a plant without total inspection by line-inspectors. I worked in slaughter (poultry) plants and I have seen first hand how they operate and what they try to pass as edible product. It just don’t fly.” (#204)
- “Plant retrieved product from trash dumpster, processed with other product with intent to distribute into commerce.” (#193)
- “Urine contamination on carcass happened and I had to hesitate to see if plant employee had noticed. This was unnoticed and had to be retained at the critical control point area.” (#179)
- “An employee informed me he had found a bag of veal trim that was forgotten for about one month in the cooler. He told me he was instructed to use it. The smell was like that of a dead animal starting to decay. (#127)
- “I have found off-condition and contaminated meat ready for grinding and processing, that plant HACCP methods failed to find and record. There are numerous “stumble ons” during my daily tour that I discover that are NOT my HACCP tasks. (#106)
- “Meat [is] left on the floor for long period of time. Meat [is] done by a brief water rinse only. Condensation observed directly on exposed product.” (#1)
- “Product that has been adulterated from falling on the floor and not reworked within a reasonable amount of time cause[s] the product to maintain a media for extensive bacteria growth.” (#218)
- “There is TSP [tri-sodium phosphate rinse] now installed in the plant in which I work and all ingesta is allowed to continue through the system, as is the case with oil and feathers. I believe this could cause cross contamination and the possibility of microbial bacteria growing.” (#248)

OIG Comments

The OIG found that hazard analyses were not complete and that there were inaccuracies. “Specifically that analyses did not always identify and address all microbiological, physical, and chemical food safety hazards that were reasonably likely to occur.” They reviewed 57 of 107 HACCP plans at 15 plants.¹⁰⁵ They found:

¹⁰⁵ USDA Office of Inspector General, *Food Safety and Inspection Service*, at 26.

- The hazard analysis deficiency we found with the most serious impact was where existing significant food safety hazards had not been identified or analyzed, and a determination made on the need for additional CCPs [critical control points] at the plant.¹⁰⁶
- FSIS needs to improve its verification and oversight...to ensure that plants implement effective controls to prevent product contamination or adulteration.¹⁰⁷
- The OIG report discusses specific sanitation problems at plants they visited. For instance, “plants A and B did not include cleaning schedules documenting the frequency of plant sanitation activities...Plant D did not develop corrective actions in its [sanitation plant] to eliminate repetitive deficiencies during pre-operational cleaning.”¹⁰⁸
- It is common for metal shavings to be incorporated into ground meat products because of fabrication and grinding operations. Only one of five plants [studied] with a raw, ground process had established a critical control point for metal detection.¹⁰⁹
- OIG found that company standards (“critical limits”) and corrective actions were inadequate to control hazards and that hazard identification and analysis was often inadequate, especially with respect to chemical hazards, such as cleaning chemicals, and physical hazards, such as metal shavings, a common adulterant of ground meat.¹¹⁰

SECTION B: COMPANY WORKERS AND MEAT INSPECTORS FEAR COMPANY RETALIATION

1. Company Workers Fear Company Retaliation

HACCP ostensibly made companies more responsible for inspecting and ensuring that products are safe and that contamination is not occurring. FSIS eventually plans to implement a system that allows even more industry self-inspection in slaughtering plants (see Chapter 2 for explanation). The survey illustrates the flawed nature of expecting companies to police their own products. A surprising number of survey responses reveal that company employees are prevented from carrying out company HACCP commitments; and that they secretly and regularly seek government help to protect consumers.

It is reasonable to assume that there are many more instances when company employees cannot do their jobs and would like government support but are too fearful of management reprisal to seek help from federal inspectors.

¹⁰⁶ *ibid.* page 26-27

¹⁰⁷ *Ibid.* page 55.

¹⁰⁸ *Ibid.* page 56.

¹⁰⁹ *Ibid.* page 14.

¹¹⁰ USDA Office of Inspector General, *Food Safety and Inspection Service*, at 11-29.

While federal workers have state-of-the-art whistleblower protection to protect them from supervisory reprisal when they take unpopular action on behalf of consumers, company employees can be, and are, fired at will for taking actions to protect public health. Consumer protection is now largely in the hands of workers who must choose to protect the public health or to protect job security and their family's financial stability.

In September 1999 the Supreme Court of Virginia denied job protection to a company quality control inspector who was fired when supervisors suspected she had informed government inspectors about contamination. The company alleged that she had ignored company instructions of not informing government inspectors about sanitary deficiencies, which were being inadequately addressed by the company. The court ruled that the state's adherence to the employment-at-will doctrine entitled "either party. . .to terminate the contract at will."¹¹¹

Survey Results

- 376 inspectors (87% of 432 responding) reported that company employees had secretly asked for government help in dealing with problems in the plant because they fear retaliation from company supervisors. The following numbers reported the following specific circumstances: 302 inspectors (87% of 347 responding) said that line employees had secretly shared information to help the government protect consumers or enforce the law. 145 inspectors (42% of 347 responding) reported that this occurs frequently (several times a week) and 157 inspectors (45% of 347 responding) reported that they do so occasionally (between once a week and once a month).
- 293 inspectors (82% of 357 responding) said that production employees share information about problems they are afraid to address. 121 inspectors (34%) reported that the employees do so frequently and 172 inspectors (48%) reported that they do so occasionally.
- 223 inspectors (65% of 345 responding) said that Quality Assurance or Quality Control employees (company "inspectors") share such information. 79 inspectors (23%) reported that they do so frequently and 144 inspectors (42%) reported that they do so occasionally.
- 118 inspectors (46% of 254 responding) reported that they knew of instances when company management took action against employees company management suspected of whistleblowing. 50 inspectors (43% of 115 responding) estimated that this has happened 2 –5 times since implementation of HACCP. 92 inspectors (79% of 116 responding inspectors who had learned of such instances) said that this resulted in other employees being more reluctant to share such information.

¹¹¹ Dray v. New Market Poultry Products, Inc., 258 Va. 187 at 190, 518 S.E. 2d 312 at 313; 1999 Va. LEXIS 103 at 4; 15 BNA IER CAS 938. September 17, 1999.

Inspectors' Comments

- “Management has posted written warnings for their employees not to talk with USDA [and] they were posted where USDA would read them also.” (#411)
- “I have been harassed by the plant. I have been labeled a troublemaker by the agency. The agency has sided with plant management on several occasions without even consulting the inspector in question.” (#504)
- “The plant owners...do not pay employees enough to keep them, and this results in high rates of turnovers, which results in untrained personnel doing a job that requires and employee to recognize unsafe, unhealthy conditions or disease processes. This is why government trains the inspectors, both in class rooms and online, to have a knowledge base so that the prime mission of public safety is met.” (#163)
- “Told that plants have taken USDA to court over [enforcement] actions and we should be sure of our facts and not overstep our authority.” (#163)

2. Inspectors Fear Company Retaliation

Inspectors may be held personally liable by a company for any financial loss resulting from a significant misinterpretation of the regulations.¹¹² Of course, industry management only threatens repercussions when inspector action is, in their view, too strict. This type of policy confusion creates pressures on inspectors to release product or allow activities that could be unsafe or unwholesome for, or risk being sued by the company.

Survey Results

- 199 inspectors (50% of 401 responding) reported that plant management argued that their HACCP decisions were improper.
- 50 inspectors (26% of 193 inspectors who had encountered such arguments) said that this happens at least once a week and 46 inspectors (24%) said it occurs at least once a month.

¹¹² When the agency pursues a regulatory action against a company an agency official will take a statement to “also demonstrate[] that inspection program personnel are working within the scope of their employment if later indemnification occurs” (FSIS, *Regulatory Process For HACCP-Based Inspection Reference Guide*, January 1998, at 34).

- 20 inspectors (5% of 415 responding) said they have been personally threatened with a lawsuit by plant management for taking or preparing to take a regulatory action, and
- 80 inspectors (19% of 432 responding) said their FSIS supervisors had warned them that a specific action they had taken on the job could result in a lawsuit brought against the inspector him/herself by the company.
- 95 inspectors (22% of 434 responding) said they have received an advertisement or offer for insurance specifically to protect them from lawsuits of this type.

Inspectors' Comments

- “I was told by the IIC [inspector-in-charge] that I had to be cautious in my decisions to stop the line and make sure decisions are supported or the company could take legal actions against me.” (#276)
- I withheld inspection [plant can't continue to operate] which resulted in suspension [of meat processing]. Plant owner verbally threatened legal action against me and FSIS, but didn't follow through.” (#58)

SECTION C: WHY IS HACCP NOT PREVENTING CONTAMINATION?

Survey respondents overwhelmingly report a reduction in consumer protections as a result of the new inspection tasks, procedures and limitations on authorities adopted through HACCP implementation. One of the principal reasons that contamination has increased under HACCP is that inspectors are instructed to “let the system work.” This means that when they see problems, such as fecal-contaminated meat on production lines, they cannot intercede and must instead provide the plant the opportunity to discover and correct problems before stepping in after contamination has passed all company controls to protect consumers.

1. Inspectors Are Told To “Let The System Work”

Survey Results

- 344 inspectors (81% of 426 responding) felt they cannot, generally, enforce the law as well under HACCP as before HACCP, as shown in Table 4. 64 inspectors (15%) felt they could enforce the law.
- 232 inspectors (69% of 338 responding), say that they can not enforce the law as “realistically” now because HACCP regulations explicitly limit direct government action.

- 333 inspectors (78% of 429 responding) reported that based on their experience, HACCP has been primarily implemented as a substitute for continuous inspection.
- Only 34 inspectors (8% of 429 responding) indicated that they are or would be supportive of HACCP substituting for continuous inspection.

Table 4. Inspectors’ Opinions Regarding Whether HACCP Has Improved Food Safety.

Inspectors’ Opinion	Number of Respondents	Percent of Respondents
Much worse	167	39%
A little worse	95	23%
About the same	52	12%
A little better	17	4%
Much better	17	4%
Cannot determine	82	19%
<i>Total</i>	<i>430</i>	<i>100%*</i>

* Numbers do not add to 100% due to rounding.

- 353 inspectors (85% of 417 responding) indicated that there have been instances when their authority and ability to protect consumers was greater under the former system.

Inspectors’ Comments

- “Instead of taking action immediately we are instructed to ‘let the system work.’” (#494)
- “This is HACCP plant and anytime it’s HACCP let it run. Let the system work.” (#504)
- “HACCP is a joke. There will be all kinds of food contamination outbreaks before this comes full circle.” (#49)
- “The training seemed unclear and confusing. The thing most repeated was, “let the system work.” They stayed away from hands-on enforcement.” (#145)
- “Under HACCP there is [a] higher chance product could be shipped adulterated. Under the old system, if there was reason to believe product was bad, FSIS could hold that product. Now we have to observe and see if the company catches it.” (#410)
- “We were able to take immediate action, not wait and let the system catch it. We can’t stand there all day and wait to see what happens.” (#413)
- “HACCP ties our hands and limits what we can do. If this is the best the government has to offer, I will instruct my family [and] friends to turn vegetarian.” (#83)

- “The company is regulating [and] inspecting itself. Yet the boxes of meat [and] the carcasses still bear a USDA inspected [and] passed legend. (#355)
- “Under HACCP we have to wait for company to take action, and we only take action if it is direct product contamination. HACCP takes away the inspector’s experience and judgment to make a decision.” (#86)
- “HACCP is not proactive yet, if ever, but reactive after the fact when it’s to[o] late and people are getting sick with some dying. With the conception of HACCP the agency [has] selected every aspect to make it look good on paper.” (#394)
- “Before HACCP you could stop slaughter line to report feces or ingesta. Now you must let [the] company handle [it], and you cannot verify who reconditioned and how. (#163)
- “The regulations say we have some authority, but HACCP says wait and see.” (#219)
- “We’ve lost all of our enforcement enhancers (label approvals, midshift clean up, pre-approved equip[ment], etc.)” (#515)
- “We have had more recalls since HACCP was implemented than I can ever remember. This should tell everyone that the inspection in the plants is not what it used to be, and I think HACCP is to blame.” (#390)
- “Under the old system there were more codes/regulations, [so] that an inspector could better perform his/her duties. Under HACCP plants are allowed to bully inspectors more and question their authority more, not allowing them to fully do their jobs.” (#495)
- “Regulations are much more to the point. HACCP is more vague overall. Gives the plants more room for not dealing with the problems.” (#313)
- “I used to know what I was doing when I made a decision. Things are changing so quickly, I don’t feel that way anymore.” (#429)

OIG Comments

- “[FSIS] had not established needed procedures, [and] it had reduced its oversight beyond what was prudent and necessary for the protection of the consumer. For example, FSIS does not require plants to provide inspectors with positive environmental microbial test results, although these tests could provide an indication of sanitary deficiencies in the plant.”¹¹³

¹¹³ Ibid. page ii.

- “[HACCP] replaced FSIS’ long-standing program of meat and poultry inspection. Under the pre-HACCP system, the production of meat and poultry products was monitored at every stage by Government employees rather than by in-plant production managers. The HACCP program reversed this arrangement by allowing a plant to monitor itself. It gave industry, not Government, the primary responsibility for insuring the safety of meat and poultry products.”¹¹⁴
- “For plants with documented deficiencies, FSIS has not established when corrective action needs to be taken or when an action taken has proven inadequate...Since FSIS had set no limit to the number of deficiency notices a plant could receive on the same deficiency, no long-term correction was applied.”¹¹⁵

2. Company Management Can Call The Shots On HACCP

HACCP implementation required “a significant change in the roles and attitudes of both inspectors and industry.”¹¹⁶ Companies were assigned primary responsibility for product safety and quality with government inspection transformed primarily into an auditing function instead. According to HACCP documents, industry was to:

look at all the things that could possibly go wrong, ensure their systems prevent those problems, and take immediate action if a problem arises,

while the government was to

set appropriate food safety standards, maintain vigorous and continuous inspection oversight to ensure those standards are met, and take enforcement action when standards are not met through system failures.¹¹⁷

Inspectors’ oversight abilities are severely compromised because their assigned duties are centered on the Critical Control Points (CCPs) identified in a plant’s HACCP plan or monitoring points identified in their Sanitation Standard Operating Procedure (SSOP), which is the written plan for ensuring that the plant is clean. Companies are responsible for identifying the CCPs, however they can game the system by selecting very few, in some cases only one. Government meat inspectors are then primarily limited to carrying out their duties at the CCP locations.

Survey Results

¹¹⁴ Ibid. page 1.

¹¹⁵ Ibid. page iv.

¹¹⁶ FSIS, *Pathogen Reduction*.

¹¹⁷ Ibid.

- 266 inspectors (79% of 338 responding) said that the fact that government inspection tasks are reduced because monitoring points are now based on company-created HACCP plans is the primary reason they cannot enforce the law as “realistically” under HACCP as before.
- 219 inspectors (79% of 277 responding) said that there were instances when they suspected that company records were falsified but could not address the problem under current policy.
- 204 inspectors (56% of 362 responding) indicated that there have been instances when they found contamination and the plant had no CCP to address it. 90 of these (46%) said that plants had to eventually reevaluate their HACCP plan, indicating that the plant should have established a CCP for this problem when it first designed its HACCP plan.
- 199 inspectors (80% of 249 responding) believe that the public’s right-to-know about food safety information (including contamination and sanitation) is adversely affected under HACCP. Only 32 inspectors (13%) felt the public’s right-to-know is sufficiently addressed by HACCP.

Inspectors’ Comments

- “Plant has 1 plan covering 3 process categories—but only 1 CCP (cook temp.) No CCP for raw ground [and] not ground processes.” (#121)
- “You cannot take action to correct a serious or potentially serious health contaminant until the plant has addressed this according to their HACCP plan.” (#115)
- “Plant managers say the rule is—there are no rules! We [plant managers] write our own regulations.” (#515)
- Plant required to have 1 CCP. This does not have to be anywhere near the actual handling or processing of the product. (#474)
- “The plants insist that their HACCP plans overrule FSIS regulation.” (#117)
- “Fecal contamination that should have been addressed by a CCP. The [written record of violation] was written as a HACCP monitoring violation. Appealed because fecal contamination is not a CCP.” (#273)
- “The response I got at one plant was, ‘Thank god we’re finally going to get rid of you guys. The government has been nothing but a pain in the ass. Anyway we can get rid of inspectors is a great thing.’” (#125)

- “The plant NEVER HAS TO reevaluate their plan. We cannot require it. That’s what’s wrong with this program!!” (#374)
- “HACCP has very good results when used in the way it was designed for—ready-to-eat product. HACCP doesn’t fit into the production realm of raw product. Product comes in raw [and] goes out raw.” (#382)
- “Plant management knows that the present HACCP system was designed for their benefit and not the consumer, thereby they act accordingly. Many more inspection observations and actions are questioned.” (#1)
- “Some of the definitions for task inspection elements under HACCP are vague [and] leave room for plants to argue the point.” (#472)
- “We were told that with HACCP, we will be able to control the company and hold them totally responsible for their action. Instead they wrote only what they want to be responsible for and we must accept it. It is their program.” (#462)
- “Under [the former system] we had specific tasks that were very well laid out in our training material. HACCP is vague—like we are supposed to figure it out on our own....In processing, since the CCPs are in areas that the company, on its own, won’t process unless they are in compliance—they are never out of compliance!” (#412)
- “Product left in coolers over the weekend at unacceptable temperatures.” (#38)
- “Product not properly iced or stored causing the internal temperature to rise about 55 on chilled whole birds.” (#218)
- “Found udder, violation of CCP. Once told them they will receive a [write up of violation]. They tried to deny that I found udder past the CCP point.” (#123)
- “It seems the major check made under HACCP are temperatures of product, not so much on quality of the product.” (#448)
- “I have one case pending [of a record] being falsified.” (#2)

OIG Comments

Significantly, the first problem cited by OIG was the authority of companies to write the HACCP plans and to identify their own critical control points. The report noted that 14 out of the 15 plants reviewed had at least one incomplete HACCP plan. It also found that plants limited the number of CCPs identified and thereby limited government oversight. Companies also changed their HACCP plans without notifying FSIS of the change. The report found:

- Plants did not develop CCPs for key processes.¹¹⁸
- The number of CCPs was generally reduced (frequently to one per plan) after implementation of HACCP.¹¹⁹
- Plants with similar processes did not have similar CCPs and these were not consistent with the FSIS model HACCP plans.¹²⁰
- FSIS inspectors told [OIG] that they believed some plants intentionally kept the number of CCPs low to reduce the involvement of FSIS, reduce the likelihood that FSIS could find justification to shut down the plant...and reduce likelihood of adverse or confidential information becoming public.¹²¹
- OIG found instances at plants that took no permanent corrective action to prevent repetitive deficiencies, where “problems had been ongoing for several years and that nothing had been done to correct the problem,” and where “company officials seemed to wait for FSIS inspectors to point out deficiencies before taking corrective actions. FSIS inspectors told us that the plant management attitude was ‘if the inspector does not spot a problem, then the problem does not exist.’”¹²²

3. Plants Do Not Maintain Sanitary Conditions

In addition to requiring the development of HACCP plans, regulations specify that plants must ensure hygienic facilities. According to the OIG report, “[t]hey must develop and implement written Sanitation Standard Operating Procedures (SSOP) to document such activities as plant cleaning schedules and to track adverse sanitary conditions that recur.”¹²³

Survey Results

- 328 inspectors (76% of 431 responding) said that during HACCP training, they were told that all USDA minimum requirements needed to be addressed in the plant’s SSOP and HACCP plan.
- 118 inspectors (28% of 418 responding) reported that all USDA minimums are not addressed in the SSOP and/or HACCP program documents at the plant(s) where they monitor HACCP.

¹¹⁸ USDA Office of Inspector General, *Food Safety and Inspection Service*, at 11.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ *Ibid.*, at 14.

¹²² *Ibid.*, at 65.

¹²³ *Ibid.*, at 5.

Inspectors' Comments

- “Supervisors do not always call direct product contact surface contamination on equipment and SSOP failure when it should be.” (#6)
- “Condensation falling from overhead pipes and ceilings onto product. These instances are supposedly addressed in plant’s SSOP, but are rarely detected.” (#228)
- “Dirty wooden pallets being used to place product on, temperatures of product, flies in processing area, employee’s dress/hygiene.” (#14)
- “On SSOP forms, est[ablishment] has until end of day to complete form. This is virtually impossible to fill out correctly because how can the responsible person remember all the deficiencies, corrective actions, and preventive measures? Needless to say, documentation should be filled out immediately instead of having the whole day to fill out.” (#50)
- “My observations are that no one gets excited about grease smears on carcasses. When the water for hand-and-equipment washing at the inspection stations is dirty, the IIC [inspector in charge] lets the plant run anyway. I had an opportunity to re-inspect product that was packed for shipping to customers, but was retained because of metal found on carcasses coming out of chiller. I was a bit dismayed by how dirty the product was, but I wasn’t there to find dirt, just metal. Is this HACCP?” (#68)
- “My [circuit] supervisor once informed me that if pre-operational [sanitation] inspection is not scheduled, I am not permitted to perform this task even if I observed dirty equipment that’s about to be used. I informed him that my compliance to his instructions would have to be put in writing along with his signature. He naturally declined my request.” (#105)

4. Inspectors Audit Paperwork Rather Than Inspect Meat

Inspectors’ review of company records was used only sporadically prior to HACCP and only as part of a company’s quality control program. This is now the primary method used by inspectors to verify that plants discovered contamination that the inspector had identified earlier. Therefore, the government and consumers are now more reliant on company self-policing.

Survey Results

- 379 inspectors reported that they spend five times as much time checking company records under HACCP as they did under the former system. These inspectors spend 1/3 of the time, as compared to the pre-HACCP system, actually inspecting the meat and poultry products to protect consumers.

Inspectors' Comments

- “These records were not used solely to verify product integrity but as a guideline with (sic) actual hands on verification by [government] inspection team members. Now under HACCP, product integrity is solely based on [company] records. . .” (#163)
- “It’s a big paper chase...dot the ‘i,’ cross the ‘t.’ That is all that counts.” (#200)
- “Paper trail to[o] great to follow under HACCP.” (#373)
- “But testing and reviewing paperwork does not protect the consumer from getting dangerous product that gets them sick or [kills them]” (#462)
- “We took specific control actions under the traditional system. If the plant takes specific action we really don’t know—we are compelled to take their word for it with no means to verify.” (#145)
- “The record keeping requirements...require that plants make entries at the time observations are made.... On more than one occasion the [FSIS supervisor] has allowed the plant to ‘build records’ after the identification of a record keeping deviation by [FSIS inspectors].” (#32)

SECTION D: IMPROPER OVERSIGHT OF MICROBIAL SAMPLING

Microbial testing could have been added to the inspection system which authorized government inspectors to inspect meat and sanitation during all parts of slaughtering and processing. Instead, microbial testing was adopted at the same time inspector authorities were weakened under HACCP. The adoption of microbial testing secured the support of the food safety advocacy community for HACCP.

In order to broker a compromise between the food industry and safe food advocates, FSIS explicitly dropped or relaxed specific inspection requirements, but added microbial performance standards that were to be used to measure overall inspection effectiveness. Many requirements were dropped simply by changing the descriptions of inspection tasks, but others were more formally dropped as the industry pressured the agency to pursue its Regulatory Reform Initiative.¹²⁴ Unfortunately, the microbial testing program is not as strong as it could or should be. Company testing is largely a company honor system and government testing is limited, sporadic and poorly administered.

¹²⁴ FSIS, Regulatory Reform Initiatives, Washington, DC, December 1999, www.fsis.usda.gov/oa/background/regref1299.htm.

The requirements included testing for two pathogens: company testing for generic E. coli¹²⁵ on carcasses during slaughter to detect fecal contamination, the principle source of pathogenic organisms that contaminate carcasses,¹²⁶ and government testing for salmonella¹²⁷ during slaughter and at ground meat plants. The E. coli testing is done on a per volume basis whereas government salmonella testing is done as a limited series of daily tests.

For E. coli testing for chicken, the company is only required to test one out of every 22,000 carcasses, but a minimum of one per week.¹²⁸ Cattle requirements for E. coli is one per 300 carcasses, and swine is one per 1000, but each has a minimum requirement for one test per week.¹²⁹

Salmonella testing is only done when FSIS sampling center specifically requests that it be done at a plant.

1. Company Testing of E. Coli

Inspectors in plants that are required to test for generic E. coli are supposed to verify that companies are performing acceptably with respect to established microbial standards. Inspectors have long been concerned, however, that FSIS lacks sufficient oversight of company sampling programs and that the protective power of microbial testing is so severely compromised that the agency's regulatory power may be only theoretical. Inspectors are hampered in their ability to oversee company testing because they rarely are present when testing is performed, generally see only a summary of results, not the actual laboratory results, and cannot verify that plants are not overtesting in order to achieve a sufficient number of acceptable results.

Plants must follow FSIS guidelines for correct E. coli sampling procedure in order to achieve “a useful measure of process control.”¹³⁰ Inspectors are rarely assigned to observe plant testing procedure, although variations from correct procedures are likely to invalidate the scientific significance of the results. Testing results may also be biased if company employees know when a sample will be taken and they deliberately or inadvertently change procedures just prior to

¹²⁵ Generic E. coli is a common bacteria, which indicates the presence of feces. The deadly bacteria, E. coli O15H7:O7, is related, but much rarer (FSIS, “Key Facts: HACCP Final Rule,” July 1996.).

¹²⁶ FSIS, Key Facts: Microbial Testing Programs, July 1996.

¹²⁷ Salmonella was selected because it is the most common cause of food borne disease associated with meat and poultry.

¹²⁸ Title 9, Part 381, Subpart K, Sec. 381.94, (a) (2) (iii) (A).

¹²⁹ Title 9, Part 310, Sec. 310.25 (a) (2) (iii) (A).

¹³⁰ These guidelines emphasize that proper procedures for aseptic techniques of sample collection, random selection of carcasses to avoid bias, integrity of sampling solutions and proper handling of samples from sample-taking through transportation to lab and lab analysis must be followed to obtain valid results (FSIS, HACCP/Pathogen Reduction Final Rule, Appendix F – Guidelines for Escherichia coli Testing for Process Control Verification in Cattle and Swine Slaughter Establishments and Appendix G – Guidelines for Escherichia coli Testing for Process Control Verification in Poultry Slaughter Establishments, July 1996).

testing. Variations from correct procedure identified by survey respondents (see Inspector Comments below) demonstrate how the integrity of samples can be destroyed.

Even if sampling procedure is strictly followed, the inspectors have no authority to verify that the results presented on a plant's process control chart correspond to the results found at the lab. When inspectors are assigned to check plant E. coli results, they only have authority to review a summary of results from the previous 13 tests.¹³¹

Finally, while the regulations mandate that certain producers must test for E. coli at least once for specified volumes of meat or poultry produced, the regulations do not prohibit plants from taking more than the required number of samples and choosing which results to report. Plants may "legally" weight the scales in their favor by taking multiple samples for each sample required and reporting only acceptable findings. Duplicative sampling does not necessarily indicate that a company is weighting the results reported to their advantage, but it does enable unscrupulous companies to do so.

Survey Results

- 235 inspectors (57% of 431 responding) work at establishments that must test for E. coli.¹³² 78 inspectors (51% of 154 responding) have been assigned to watch a sample being taken and 156 additional inspectors, not so instructed, have observed E. coli testing. 148 inspectors (53% of 277 responding) reported that they never see actual lab results of company E. coli testing and instead are only shown a plant summary. Only 63 inspectors (23%) said they see the actual report.
- 96 inspectors (36% of 265 responding) did not know whether E. coli tests were done on an announced or unannounced basis. 95 inspectors (36%) said this testing is done on an unannounced basis so company employees do not know when samples will be taken; but nearly as many, 74 inspectors (28%) said that company employees do know when E. coli sampling will be done at their plants.
- 151 inspectors (62% of 245 responding) did not know if the plants where they have been assigned have taken multiple E. coli samples and chosen one result to include in the summary they share with FSIS.

Inspectors' Comments

- "Prior to pouring media into bottle, personnel spray bag off with chlorine water, and this chlorine I have observed drip into sample being taken [which could falsify results]." (#352)

¹³¹ USDA Office of Inspector General, *Food Safety and Inspection Service*, at 52.

¹³² Plants that produce cooked products are not required to test for E. coli.

- “[B]y using alcohol on rubber gloves and the gloves are not dry and they touch the sponge with the wet gloves and the sponge absorbs the alcohol and therefore you have a sterile sample.” (#321)
- “They turn their chlorine spray up high and take it right after the bird goes through the spray. It’s put in a plastic [testing] bag while still dripping with chlorinated water.” (#509)
- “[Company employees] decide when taking sample, clean everything, take sample, do a small lot, re-clean everything and then if comes back positive have got small lot controlled and contained.” [310]
- “Before testing carcass, washing carcass with extra doses of 10 ppm [parts per million] chlorine water.” [166]
- “[Company employees] spray with disinfectant before testing carcass.” (#442)
- “Selective sampling site (pre-cleaned with sanitizer).” (#79)
- “Once I found values on the E. coli recorded “whited-out” and new values written in. I documented this finding on an “NR” [written record of violation] and they responded that it was a mistake and wouldn’t happen again.” (#258)
- “Plants are allowed to perform and record results in their own lab at their own discretion which is accepted by USDA.” (#236)
- “Two sets of records being kept by QC; one set to show USDA inspectors (looks real good); and one set for their own use.” (#430)

OIG Comments

- “Current procedures do not require FSIS approval of plant microbial testing protocols. In addition inspectors concentrate their review efforts on plant generic E. coli testing results when monitoring tasks are assigned and do not review the testing protocol. As a result, there was reduced assurance that required procedures designed to provide an indication of overall plant sanitary conditions accurately reflected conditions in the plant and identified cases where corrective action was needed.”¹³³
- OIG found problems with testing protocols at four out of the seven plants that it reviewed for E. coli sampling,¹³⁴

¹³³ USDA Office of Inspector General, *Food Safety and Inspection Service*, at 44.

¹³⁴ *Ibid.*, at 44.

- “[S]ome plants initially denied both the Inspector General’s and FSIS’ requests for testing information.”¹³⁵
- OIG concluded that FSIS “needs to increase its oversight of plant testing protocols”¹³⁶ and that “inspectors need access to all plant records of pathogen testing and timely notification by plant management of all adverse test results.”¹³⁷

2. Government Salmonella Testing

Government salmonella testing is limited to slaughter and ground meat plants, leaving other plants that perform other processing activities with no systematic government microbial testing. At eligible plants testing is not done on an ongoing basis, but a series of daily tests is initiated at a plant when a HACCP inspector receives specific instructions on their assignment schedule generated by FSIS. FSIS announced that the sampling program would employ testing at least once a day during a series of tests.¹³⁸ However, recent reports demonstrate that FSIS is not aware of all plants that should be tested, and has even failed to test 302 of 920 plants that it knows should have been tested in 1998 and 1999.¹³⁹

GAP reviewed results of the agency’s salmonella testing program at the end of 1998 and found that too often testing was not done on a daily basis and there were significant problems with the agency’s database of results.¹⁴⁰ Further, since the agency acknowledged “the need to ensure...that violations are readily detected,”¹⁴¹ it is unclear why enforcement actions may not occur for years, even though contaminated meat products continues to be sent to consumers.

Survey results demonstrate that these and other problems continued into 1999.

Survey Results

- 178 inspectors (54% of 328 responding) have been instructed to perform salmonella tests, an insufficient number of responding inspectors since microbial testing acts as a performance measure for HACCP.
- 143 inspectors (84% of 170 responding) indicated that there were days when they were assigned to do salmonella testing but, through no fault of their own, could not.

¹³⁵ Ibid., at v.

¹³⁶ Ibid., at 31.

¹³⁷ Ibid., at 52.

¹³⁸ Federal Register, Vol. 61, No. 144/ July 25, 1996, at 38848.

¹³⁹ Allison Beers, “Salmonella Results Not Necessarily Dependent on Geography,” *Food Chemical News*, August 28, 2000, at 3.

¹⁴⁰ Government Accountability Project, *Problems with the New Salmonella Testing System*, March 1999, www.whistleblower.org/www/salmonella.htm

¹⁴¹ Federal Register, at 38847.

- When sampling could not be performed on a daily basis, the average testing delay, based on 43 inspector responses, was 10.6 days.

Inspectors' Comments

- “We have never been instructed to do this test under HACCP at our plant.” (#216)
- “Did not complete any of the salmonella sample requests. The main reason is that I did not have time due to the fact that I was performing slaughter duties.”
- “As far as salmonella testing, why do we require 25-28 gram sample daily from a plant that grinds 100 pounds of meat a day and the same size sample from a plant that grinds 500,000 lbs per day (includes 2 shifts). That’s like comparing apples and oranges.” (#393)
- “The area office told me I will be told when salmonella testing will be done. I was under the impression it would be done when HACCP began. This plant started HACCP in January 99 and to this date (August 1999) and to this date no request for salmonella testing.” (#81)
- “Follow supervisors instructions [about salmonella testing]: don’t ask questions.” (#333)
- “We never finished [the salmonella testing]. We were instructed to stop.” (#503)
- “Waiting on 2nd series [of tests]; plant failed and it has been more than 60 days [without retest].” (#429)
- “Told to do only what comes out on procedure schedule. When sampling comes out on schedule, did not have supplies to conduct test.” (#239)
- “Per tech center [instructions], plant had not been selected yet [for testing]. After 6 months no samples collected.” (#474)

OIG Comments

- In two of the 15 plants studied, government salmonella series were not complete. Inspectors were unaware of this because they are not routinely informed of test results. Because “field office inspectors did not always get test results for samples submitted, . . . inspectors did not know if the pathogen-testing program had revealed indications of problems in the plants which required appropriate monitoring actions to ensure that adverse conditions were eliminated.”¹⁴²

¹⁴² USDA Office of Inspector General, *Food Safety and Inspection Service*, at 40.

- At another plant, the inspector-in-charge skipped testing on Saturday, thereby violating the sampling protocol.
- The purpose of pathogen testing is to provide “assurance that the plants’ pathogen reduction programs were effective” after HACCP implementation, yet FSIS did not order testing at one plant until 6 months at one plant and 8 months at another plant.¹⁴³
- “One recent investigation in Florida found that samples (of meat) under lax security had been tampered with, resulting in false test results. Test results from samples taken in violation of protocols could also be worthless.¹⁴⁴

SECTION E: USDA HAS HIRED TOO FEW INSPECTORS

The agency has had chronic inspector shortages for many years.¹⁴⁵ Hiring has not kept pace with industry expansion or attrition due to retirement. The agency is currently having difficulty filling inspector vacancies because of the labor shortage and the relatively low pay offered for these jobs, and FSIS assigns inspectors to cover multiple assignments.

Approximately 10,000 government employees inspected approximately 20 million cattle, 66 million hogs, and 7 billion pounds of poultry in 1960. In 1998, fewer than 6,500 employees inspected approximately 36 million cattle, 99 million hogs, and 45 billion pounds of poultry.¹⁴⁶

Overworked inspectors covering multiple assignments do not have time to perform all of their HACCP inspection duties. Government documentation of problems in plants is also crippled when overworked inspectors are covering too many assignments, or are altogether absent from plants. Since March 1999 the Southern Council of Meat Inspectors has filed approximately 4,000 grievances on short-staffing and HACCP tasks not being performed.

Government documents record the primary and, for the most part, the only history of plant compliance with regulations. These documents are necessary for any government enforcement action against bad plants. They also are a source for interested consumers and the media seeking information about company violations.¹⁴⁷ In many plants, inspectors’ supervisors have ordered HACCP inspectors covering slaughter duties, though trained and qualified to document HACCP failures, not to document problems they discover.

¹⁴³ Ibid., at 41.

¹⁴⁴ Ibid., at iii.

¹⁴⁵ See Government Accountability Project, *Off the Job: Camouflaging Deregulation of Federally-Approved Food Processing*, Washington, DC, May 23, 1996.

¹⁴⁶ Data on livestock and poultry production obtained from various volumes of USDA’s *Agricultural Statistics*. Statistics on the number of inspectors obtained from the National Joint Council of Food Inspection Locals, internal union report based on USDA budget requests from 1960-1998.

¹⁴⁷ Ibid.

Survey Results

- 206 inspectors (61% of 338 responding) who felt they could not enforce the law as well under HACCP as compared to the other system believed that their decreased ability to protect consumers was at least partially because inspector shortages result in non-completion of HACCP inspection tasks.
- 245 inspectors (54% of 418 responding) reported that they were prevented from completing their HACCP duties, and that on average 39% of these duties did not get performed.
- Table 5 shows the percentage of inspectors who could not perform their HACCP duties for the identified reasons.
- 56 inspectors (20% of 281 responding) reported that they have been instructed not to document violations they observe while performing slaughter duties.

Reason HACCP Duties Not Performed	Number of Inspectors	Percent of Inspectors
Assigned to cover two or three additional assignments at other plants	263	65%
Pulled from HACCP duties to perform slaughter inspection*	239	59%
Reassigned to other duties due to inspector shortages	174	43%
Insufficient time	198	49%
Other	25	6%

* Statutes mandate that an inspector be present at all times when animals or birds are being slaughtered whereas processing can occur without a government inspector on premises. Consequently, when slaughter inspection stations are vacant processing inspectors are pulled from their assignments to cover these positions.

- 166 inspectors (41% of 408 responding) reported that their HACCP training instructed them to record certain procedures as “Not Performed” until their review of final company records was completed, but since implementation, 86 inspectors (22% of 394 responding) have been instructed to report these procedures as “Performed” before they completed such a review.

- 95 inspectors (25% of 382 responding) felt that computerized records adequately reflect the number and/or percentage of HACCP procedures that are not being completed. Only 164 inspectors (43%) felt records adequately reflect the number of procedures not completed.
- When processing inspectors are assigned away from performing HACCP duties, agency protocol requires that veterinarians in the plant will, if they have the time, perform these duties. Respondents indicate that staffing levels are so compromised, however, that often there is no one to perform the HACCP duties because all HACCP inspectors and veterinarians are performing slaughter duties. Table 6 shows the number of times that 227 inspectors reported that HACCP duties have not been performed because all USDA HACCP personnel were performing slaughter duties.

Inspectors' Comments

- “On occasion covering 10-12 establishments, preventing one from taking daily samples as required.” (#472)
- “Due to short staffing, FSIS verification activities were not conducted for entire shifts. The company can manufacture a full-day’s records without performing its monitoring and/or verification activities.” (#32)

Number of Times	Number of Respondents	Percent of Respondents
Never	34	15%
1 – 10 times	90	40%
11 – 25 times	29	13%
25 – 50 times	27	12%
More than 50 times	47	21%
<i>Total</i>	227	100%*

* Numbers do not add to 100% due to rounding.

- “25% and in some instances, 100% for a week at a time.” (#369)
- “In a week when I am doubled, approximately 4 times since Jan. 1999, 60% were not performed. Also most of ...tasks remained unperformed. We call it ‘Drive By Inspection.’” (#127)
- “I often times have to write NR’s [written record of violation] the following day because of increasing line duties—even forced to let things “slide” because I knew that I wouldn’t possibly have enough time off the line to adequately deal with it.” (#10)

- “During vacation time (summer) I sometimes doubled up when I was the only inspector ...sometimes tripled up.” (#475)
- “25% average [shortage]. There have been a few occasions where none [of the tasks] were performed.” (#248)
- “25% not performed because doubled up and not enough time when you are scheduled to do more than one plant a day...” (#470)
- “Being doubled and tripled I was unable to reach some sample locations during the time product was being produced.” (#174)

OIG Comments

OIG found that in February 1999 staff shortages prevented 14-24% of monitoring tasks from being performed at each plant,¹⁴⁸ and that “FSIS should monitor and analyze the reasons inspection tasks are not being performed and address any needed changes. . . including staffing needs.”¹⁴⁹

SECTION F: NO CONSEQUENCES FOR REPEAT OFFENDERS

Many companies are repeatedly violating safety regulations, and yet inspectors are prevented from ensuring that measures are taken by the government to prevent contaminated meat from reaching the public. Repeated noncompliance with regulations provides one of the bases for taking strong regulatory action against a plant, but the degree of noncompliance that warrants such enforcement action is an issue over which there is much confusion. Repeated violations are especially pertinent to HACCP inspection methodology because a “trend” may indicate that “the plant does not have proper control over its processes.”¹⁵⁰ FSIS policy is vague on what specifically constitutes a trend and consequently, a basis for supervisors to investigate a possible trend.¹⁵¹

Since the beginning of HACCP implementation, GAP has received many calls from inspectors expressing the concern that a significant number of repetitive violations of food safety or

¹⁴⁸ USDA Office of Inspector General, *Food Safety and Inspection Service*, at 62.

¹⁴⁹ *Ibid.*, at 62-4.

¹⁵⁰ FSIS, *Regulatory Process HACCP-Based Inspection Reference Guide*, January 1998, at 34.

¹⁵¹ Instructions to inspectors say that even two of the same violations may constitute a trend but “[b]ecause there will be a great variety of processing environments and HACCP plants, FSIS cannot establish that a specific number of the same or similar incidents of noncompliance necessarily support an inadequate system” (*Ibid.*, at 23).

sanitation violations are not being pursued by agency supervisors. A significant number of respondents also indicated problems in this area.

In November 1999, GAP released an analysis of the FSIS' 1998 computerized database demonstrating that the agency investigated possible trends in relatively few of the approximately 70 plants that had between 60 and 524 citations for food safety failures of their HACCP system. The agency later investigated, acknowledged the problem and announced upcoming supervisory conferences to address the problem.¹⁵² There is no evidence, as yet, that significant improvements have been made.

Survey Results

- 56 inspectors (20% of 281 responding) reported that they have been instructed not to document violations they observe while performing slaughter duties.
- 114 inspectors (28% of 404 responding) have been “involved in an action to withhold inspection from a plant failing to comply with regulatory requirements.”
- 233 inspectors (71% of 331 responding) indicated that there had been ample evidence to warrant an investigation into a trend of violations at their plant. Only 25 inspectors (26%) said that there was not ample evidence for an investigation.
- 50 inspectors (23% of 221 responding) reported that they have been refused by their supervisors when they requested to seek such an investigation.

Inspectors' Comments

- “Under the new rule as we have been directed (let them fix the problem as long as they are trying is OK). We have to restate the same problem everyday with the same results—nothing.” (#266)
- “Warned to be careful with the way I worded my NR’s [reports of violations] so that I didn’t seem out to get the company.” (#354)
- “[We are told] [d]ocument it!! And once the agency has enough documentation they’ll pull inspection—Right!!!” (#312)
- “I have not been directly warned however my rating has been dropped because of it [reporting company violations]. I have been told my decisions are not supportive.” (#322)

¹⁵² Allison Beers, “FSIS discovers that inspectors are writing wrong citations,” *Food Chemical News*, June 5, 2000, at 4.

- “I feel I never know how my IIC [inspector-in-charge] will react. I correct any problem but I do not always follow up with documentation.” (#412)
- “Whenever you have them dead to rights, one of the supervisors is always going to let them have a couple of days to remedy the problem.” (#333)

OIG Comments

- [R]epetitive deficiencies in the area of plant sanitation were not being addressed.¹⁵³
- One plant had 30% of recorded violations for fecal contamination and another received at least one violation for fecal contamination on 38 out of 172 working days, and no enforcement action had been taken in either plant.¹⁵⁴
- Inspectors at one plant wanted specific guidelines because they could not get support from the District Office on repetitive problems.
- OIG concluded that “FSIS needs to establish specific guidelines for the number of repetitive noncompliance deficiencies that will support a determination that there has been a HACCP or SSOP system failure requiring administrative or enforcement actions.... [Problems have] occurred because FSIS has not issued any instruction as to how many and how frequently repetitive deficiencies can occur before corrective actions are taken.”¹⁵⁵

SECTION G: USDA MISMANAGEMENT LEADS TO INSPECTOR CONFUSION

The agency radically changed inspection philosophy and procedures with HACCP and, unfortunately, implementation began before the agency had settled fundamental questions. Policy confusion prevents industry employees and inspectors from understanding their specific responsibilities, creates an inconsistent regulatory system across the industry, and creates situations that generate conflict. Unfortunately, even a year and a half after implementation, agency confusion over policy was so extensive that many respondents reported that confusion and disagreements over the meaning of HACCP regulations impeded their enforcement of the law.

Survey Results

- 197 inspectors (58% of 338 responding) felt they were impeded in enforcing the law by conflicts between government officials.

¹⁵³ USDA Office of Inspection General, *Food Safety and Inspection Service*, at 56.

¹⁵⁴ *Ibid.*, at 65-6.

¹⁵⁵ *Ibid.*, at 64-7.

- 178 inspectors (53% of 338 responding) felt they were impeded in enforcing the law by conflicts between government and industry personnel.
- 179 inspectors (47% of 383 responding) said that policy confusion had impeded their efforts.
- 239 inspectors (59% of 408 responding) felt that their training had not fully prepared them for the first day of HACCP implementation.
- 180 inspectors (45% of 402 responding) felt that HACCP has been implemented the way they expected, based on their training, while 167 inspectors (42%) felt that it has not.
- 143 inspectors (38% of 380 responding) felt there are discrepancies between the training they received and their reading of the regulations, while 152 inspectors (40%) did not.
- 52 inspectors (13% of 406 responding) have been warned that they might be subject to disciplinary action because of the way they used their judgment.

Inspectors' Comments

- “The regulations read to document ALL infractions of regulations on NR’s [written records of violations]. But training teaches you not to write one right away.
- “With HACCP I stay confused. With relief [relief inspectors fill in at any plant where an inspector is absent]--each plant has a different plan--so, I am hesitant due to being unfamiliar with their plan.” (#420)
- “I used to know what I was doing when I made a decision. Things are changing so quickly I don’t feel that way anymore.” (#429)

OIG Comments

- “[Inspectors] were unaware of any actions to take” when they found repetitive violations.¹⁵⁶
- Inspectors wanted specific guidance because they could get no support from their District Office in addressing repetitive violations.¹⁵⁷

¹⁵⁶ Ibid., at 65.

¹⁵⁷ Ibid., at 65-6.

- [Inspectors] were aware of incomplete hazard analysis and a lack of necessary CCPs but “did not take corrective action because of uncertainties of their authority to do so.”¹⁵⁸
- The need for “internal reviews to evaluate how HACCP is operating. . . is paramount.” [O]ur audit disclosed numerous instances in which HACCP, SSOP, and testing programs were not working as intended; this also suggests that internal reviews are needed immediately.”¹⁵⁹

SECTION H: TECH CENTER ADDS CONFUSION

FSIS established the Technical Service Center (Tech Center) in Omaha, Nebraska to administer the HACCP regulations in a consistent manner and settle any policy questions that arose. Government and industry personnel are to call the Tech Center with any questions on inspection policy or methods. The Tech center is a source of great frustration to inspectors. Unfortunately, respondents indicate that the Tech Center is somewhat hampered by policy confusion and too often fails to give consistent or timely answers to questions. Policy confusion or disagreements are a potential source of stress for government workers because a misapplication of the regulations can lead to disciplinary action. Relatively few respondents, however, had actually received such warnings.

Survey Results

- 308 inspectors (71% of 435 responding) said the Tech Center had been called to settle confusion or a disagreement in their plant about a HACCP question.
- 250 inspectors (81% of 308 responding) reported that the Tech Center was called an average of 11.2 times by either a government or industry employee in their plant. The reported median was 5.0 calls.
- 116 inspectors (31% of 373 responding) were aware of instances when the Tech Center gave conflicting instructions regarding the same problem or situation. 102 inspectors (32% of 318 responding) reported that it was consistent less than half of the time. Only 54 inspectors (17% of 318 responding) said that Tech center resolutions were consistent with their training all the time.
- 100 inspectors (31% of 318 responding) reported that the Tech Center resolved questions before the end of the affected shift more than half of the time or not at all.

Inspectors' Comments

¹⁵⁸ Ibid., at ii.

¹⁵⁹ Ibid., at 55.

- “The only answer I have gotten from the Tech Center for any question was: What do you think?” (#363)
- “Many plants, including the large HACCP plant that I was assigned to, operate during late night and early morning hours. Technical Service Center is not available during these hours and issues that occur during operations in these hours go unassisted by TSC informational services.” (#32)
- “The Tech Center gives out so much contradictory and useless information that I will not call them unless I absolutely have to...They have a reputation for not being accountable for their wrong answers...This leaves an inspector feeling that he is on shaky ground and that there are no rules anymore.” (#272)
- “Record checking is supposed to be part of the HACCP plan, but when calling the Tech Center about repeated problem (sic) we were told that we do too much record checking.” (#471)
- “I was instructed to call District rather than Tech Center because I was [badgering the Tech Center] according to them anyway.” (#477)
- “Beef bologna cooked overnight under Limited Inspection Program-management failed to start Smokehouse at proper time-product set in a room at temperature above 50 degrees F for more than 2 hours--cooked the product the next morning--[I] suggested that they retain product and contact Tech Center...after consulting Tech Center...IIC [inspector-in-charge] management felt product was safe for distribution.” (#118)

SECTION I: INSPECTORS SUPPORT HACCP AS ORIGINALLY PROMISED

HACCP, per se (as distinct from FSIS’s particular implementation of HACCP) is a quality control program for managers of food production. A HACCP component to any regulatory scheme would require that companies analyze their systems and commit to procedures that eliminate or reduce hazards likely to occur in those systems. Consumer groups and inspectors advocated for HACCP, and were promised that HACCP would be additive, not substitutive, during the time that the future of inspection was being discussed.

Survey Results

- 342 inspectors (82% of 415 responding) said that they are still in favor of HACCP as an addition to continuous inspection.
- 333 inspectors (78% of 429 responding) reported that, based on their experience, HACCP has been primarily implemented as a substitute for continuous inspection.

- 34 inspectors (8% of 423 responding) indicated that they are or would be supportive of HACCP as a substitute for continuous inspection.

Inspectors' Comments

- “Incorporate the best of the old traditional inspection with the best of HACCP keeping in mind that bird-by-bird, carcass-by-carcass inspection is and should be our first line of defense to provide the public with safe food.” (#163)

OIG Comments

- OIG introduces HACCP by saying that it “replaced FSIS’ long-standing program of meat and poultry inspection . . . by allowing a plant to monitor itself.”¹⁶⁰
- OIG’s conclusion that FSIS “reduced oversight beyond what was prudent” indicates that HACCP activities were not added to the former level of oversight and criticizes the reduction.¹⁶¹

¹⁶⁰ Ibid., at i.

¹⁶¹ Ibid., at ii.

Chapter 5

Conclusions and Recommendations

HACCP is not providing American consumers with the level of protection that they expect and deserve from the purple USDA seal of approval. The USDA has allowed the meat industry to use HACCP as an industry honor system. Because of its enormous political power, the meat industry has had the clout to shape the HACCP program and make it a replacement for, rather than an addition to continuous inspection of meat. Curtailing inspectors' authority means that processing lines can operate faster—and that means more profits. Other changes in the law, such as also removing the authority meat inspectors had under the old system to require that facilities and equipment be kept clean, are also threatening food safety.

Contrary to what was promised by the Clinton administration, the HACCP program is being used to weaken meat inspection by limiting inspectors' authority. President Clinton and Secretary Glickman pledged that the program would add to the protections consumers enjoyed under the old system, not subtract from them by limiting the authority of government meat inspectors.

Under the pretense of modern science, meat inspectors are now generally prohibited from examining the entire meat processing line to prevent fecal matter, rotten meat or other objectionable contamination from reaching consumers. Inspectors are primarily limited to viewing meat at an area that the company designates as a “critical control point,” and the company is allowed to choose the location and number of these points. As a result, consumers are being allowed to eat meat that can be contaminated both with potentially infectious fecal matter and non-lethal substances—including tumors, pus, blisters, scabs, hair, feathers, rust, and bits of metal.

Chemical interventions and irradiation are being substituted for good sanitation practices, which means that in many cases companies attempt to sterilize fecal matter rather than remove it. Furthermore, the practices used for microbial sampling of meat and poultry for pathogens are fraught with problems—too few samples for too much meat and too much room for error.

The USDA made these changes under the guise of improving meat inspection, and they are shrouded in jargon about science-driven, risk-based food safety. The agency could have maintained continuous inspection, while adding microbial testing and other science-based tools, thus increasing needed protections. Instead, the USDA has betrayed consumer trust by facilitating the partial dismantling of the meat inspection system.

The agency has allowed the meat industry to put its agenda before the safety of Americans. Without a doubt, the meat industry is extremely powerful and it wields a big stick, especially during the election season. The industry's well-connected lobbyists are working overtime to

promote a back room deal that would overturn the federal court's decision reaffirming continuous inspection. They are promoting a "legislative fix" that would allow the USDA to continue its march towards company self-inspection.

SIGNIFICANCE OF THE SURVEY

We make no claim that our results are representative of the general population of HACCP inspectors throughout the nation. The efforts of regional presidents to reach inspectors were not necessarily consistent. We can speculate about possible impediments to a representative sample and why some inspectors were more likely to complete and return questionnaires.

Some inspectors may have been dissatisfied with HACCP implementation. Many respondents, however, may have been motivated by a desire to participate in a discussion about the new system. This possibility is supported by the fact that respondents reported a number of positive aspects of inspection under HACCP. Responding inspectors may have believed that publication of HACCP problems could bring about desired changes such as improving the system and/or saving inspector positions. Additionally, respondents had enough interest and time to fill out the lengthy survey. The balance between inspectors with different motivations for filling out surveys is impossible to estimate.

Despite the absence of guarantees that respondents are representative of the experiences for all HACCP inspectors from January 1997 through summer of 1999, there are numerous reasons why the information available here is invaluable for consumers, policy makers and the Department of Agriculture. Many questions pertain to the numbers of certain events that are noteworthy *per se*. Given the number of HACCP inspectors who responded, the events cited here are almost certainly undercounts of the actual occurrence of these events. **In our view, many of these events should occur rarely, if ever.** Some information, such as the 224 inspectors who reported that they did not have the time to directly confirm that the plant caught contamination they had identified but were restricted from removing earlier on the line, is a very significant fact.

It is also notable that many of the problems cited by hundreds of inspectors reaffirms problems that were identified by the Office of Inspector General in its June 2000 report on HACCP.

RECOMMENDATIONS

The damage must be undone. The president and secretary of agriculture should put the American consumer first and reaffirm the original commitment that HACCP will add protections, not reduce government oversight.

In the waning days of 106th Congress, no back room deals should be struck to overturn the court decision enforcing continuous, carcass-by-carcass government inspection as the

foundation of America's food safety law. There should be a full public debate on the issue surrounding meat inspection, including congressional hearings.

The following principles should guide the reform of the meat inspection system:

- Self-inspection by the meat industry is inappropriate. The federal government is the appropriate institution to inspect government-approved meat;
- The federal government, not the regulated industry, should make the final judgment call on whether each carcass receives approval;
- HACCP must be reevaluated and redesigned along the lines that were originally promised by the Clinton administration. The consumer protections that have been discontinued should be reinstated, including continuous physical inspection of carcasses, the pre-operational inspection of sanitation, and the authority of meat inspectors to require the removal of contamination at all points during slaughter and meat processing;
- USDA should not weaken the standards for adulteration. Adulteration covers more than merely microbial contamination. It also includes visual contaminants (i.e. tumors, or pus from abscesses). At the very least, adulterants should be labeled;
- USDA should eliminate its policy of permitting chemical interventions or irradiation as a substitute for sanitation, or for enforcement of federal food safety laws.
- Congress and USDA should require state of the art whistleblower legal protection for any employee who defends food safety;
- USDA should stop covering up contamination by removing gag orders that ban its inspectors from making a record of contamination they catch during inspection;
- Government inspectors should be armed by the USDA with the most advanced consumer protection technologies, for instance, real-time, rapid tests for contamination, which can be used to prevent meat with deadly pathogens from ever leaving the plant;
- The USDA should request that Congress provide funding to support the inspection staff necessary for the integrity of the government's seal of approval; and
- Congress should restore the public's right-to-know that existed prior to the implementation of HACCP, by requiring public access to all HACCP compliance and other food safety records.