



## Senate II

### Food Safety

By Ariel Stoddard

#### Introduction

Every year, 76 million Americans get sick, 325,000 are hospitalized, and 5,000 die from food borne illnesses caused by **microbial contaminants** and other pathogens. These statistics are due to government oversight and neglect regarding federal food safety regulations. In January of 2007, the US Government Accountability Office identified America's food safety system as a high-risk area needing special oversight and reform. Food safety is a scientific discipline describing the handling, preparation, and storage of food in ways that prevent food-borne illness, such as specific routines that should be followed to avoid potentially severe health hazards. Many policymakers have begun to question whether the US food safety system has the resources, authority, and structural organization to safeguard the health of American consumers, who spend more than \$1 trillion on food each year. Also at issue is whether federal food safety laws, first enacted in the early 1900s, have kept pace with the significant changes that have occurred in the food production, processing, and marketing sectors since then.

Unfortunately, recent food safety-related incidents make it clear that our system and our laws are outdated, resulting in a food system that poses a serious threat to the health and safety of American citizens. Aside from direct public health concerns, there are numerous other problems that arise from this lack of adequate food safety regulation. Consumer confidence in food purchased from grocery stores and at restaurants has decreased, thus adversely affecting the agricultural sector of society. Additionally, the economic costs of hospitalizations, lost productivity, and death from deadly food-borne pathogens are massive, costing the country billions of dollars each year.

#### Summary of the Problem

Thirty-five years ago, the US Food and Drug Administration (FDA) completed annual inspections of roughly half the nation's food processing facilities. Last year, the agency inspected just 7,000 of the nearly 150,000 domestic food facilities. Its oversight of foreign plants, which provide a growing share of the nation's food supply, was even less thorough. These lowered standards are indicative of the failing state of food safety regulation. The following overarching make up the major problems in food safety regulation: structural deficiencies, misallocated resources, and insufficient method of attack.

**microbial contaminants**—a *microorganism that enters a system (the environment, human body, food, etc.) where it is not normally found*

### *Structural Deficiencies*

US federal regulations governing food safety are both fragmented and complicated. The two primary agencies in charge of food safety are the US Department of Agriculture (USDA) **Food Safety and Inspection Service (FSIS)** (commonly referred to as simply the USDA), which is responsible for the safety of meat, poultry, and processed egg products, and the Food and Drug Administration, which is responsible for virtually all other foods. Though the USDA and the FDA are the primary agencies, there are 13 other agencies that share oversight responsibilities in the food safety system. This results in a chaotic and inefficient system.

The differences in the systems of inspection for the USDA and FDA also contribute to the chaos. The USDA first determines import eligibility, or whether the US can import a product. It does so based on how similar the foreign country's regulations are to US standards, along with on-site **audits** which oversee the regulatory procedures in the foreign country. Once eligibility has been established and imports reach the US, 100% of the products overseen by the USDA must be inspected for certification documents, proper labeling, and overall condition. Within the FDA system, import eligibility is established on a firm-by-firm basis, disregarding any value that could be derived from taking into consideration evaluations and standards already in place in the foreign country. Consequently, hundreds of thousands of firms from 150 different countries must first become certified by the FDA before they can sell their products on the US market. This, in turn, means that the FDA—an agency that is already underfunded and understaffed—is completely overwhelmed by the scope of its authority. Additionally, FDA inspections of the actual products once they arrive in the country are far less frequent than those performed by the USDA, as the FDA inspects only one percent of the food that it regulates.

### *Misallocated Resources*

Federal food safety efforts are further hampered by inadequate funding, as well as confusion created by the outdated rules and regulations currently in place. While the USDA and FDA share the primary responsibility for food safety, each agency employs different inspection procedures and works with a different budget. Federal food safety expenditures are not distributed evenly across all the high risk foods. Instead, they are concentrated on meat and poultry products regulated by the USDA. While the products regulated by the USDA constitute only one-fifth the food supply and 27% of the outbreaks, Congress currently appropriates twice as much money for the USDA's food safety budget as for the FDA's. This gives the USDA the resources to inspect meat and poultry plants daily, as required by law. In contrast, the FDA, which

#### **Food Safety and Inspection Service (FSIS)**

*—public health agency responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged*

**audit**—*an evaluation of an organization,*

regulates 80% of the food supply, inspects food facilities it oversees on average just once every 10 years and receives just 25% of the total federal money appropriated for food safety.

#### *Reactive vs. Proactive*

The FDA's current programs are not proactive in design or execution. Tasks such as emphasizing prevention, evaluating hazards, and focusing inspection resources on areas of greatest risk to public health are not embedded in the current food safety program. Rather, the FDA has generally been a reactive body, usually stepping in during the aftermath of a problem.

The FDA rarely visits food manufacturing and related facilities to check sanitary and other conditions.

## **Recent Developments**

#### *H.R. 2749: Food Safety Enhancement Act of 2009*

Introduced by Representative John Dingell, H.R. 2749 "To Amend the Federal Food, Drug, and Cosmetic Act to improve the safety of food in the global market, and for other purposes" was passed in the House on July 30, 2009 with a vote of 280 for and 150 against. On August 3, 2009, it was received in the Senate and read twice, after which it was referred to the Committee on Health, Labor, and Pensions. This bill would give the FDA greater regulatory powers over the national food supply and food providers with the goal of preventing food-borne illnesses and ensuring food safety. More specifically, it would increase the frequency of FDA inspections of food processing plants, expand the FDA's trace-back capabilities for when outbreaks do occur, give the FDA mandatory recall authority, and require food facilities to have safety plans in place in order to mitigate hazards. Concurrently, the bill would impose annual registration fees of \$500 on all facilities holding, processing, or manufacturing food and require that such facilities also engaged in the transport or packing of food maintain pedigrees of the origin and previous distribution history of the food.

#### *S. 510 Food Safety Modernization Act*

On Dec 19<sup>th</sup> 2009, this Act was placed on Senate Legislative Calendar under General Orders. It is a bipartisan bill currently being debated in Congress, sponsored by Rose DeLauro. The bill focuses on four key areas to improve: food-borne illness prevention, food-borne illness detection and response; food defense capabilities; and overall resources. Amidst much support, there is also a substantial amount of opposition towards this bill generating from the food conscious American public, mostly among those who feel as though it "criminalizes **organic farming**" and has the impact to destroy small family farms and even

**organic farming**—a type of farming which does not use any synthetic fertilizers or pesticides

eliminate backyard vegetable gardens – a point that is hotly disputed by supporters of the bill.

## Focus of Debate

Debate has erupted over the past few months about whether to bolster food oversight at the Food and Drug Administration or assign its responsibilities to a separate agency. Another long debated issue of contention between experts is whether the FDA should increase inspections or rely instead on private auditors and more detailed safety rules.

### *Conservative View*

Conservatives are willing to support a bill that provides the FDA with the necessary tools to ensure the safety of the public food supply, but are very much against supporting new blanket authorities that are designed merely to empower the bureaucracy, and they will not support **user fees**. Conservatives also commonly believe that taxes on food products will show up in increased costs of those products on grocery store shelves—increased costs that must be paid by consumers. Neoconservatives even maintain that government is neither needed nor useful even regarding food safety regulations.

**user fee**—*A fee paid by food facilities in order to fund the food safety activities of governmental agencies*

### *Liberal view*

Liberals are eager to enact food safety legislation, since they feel as though the current US food safety system can no longer play an efficient role in food regulation. It can be generally assumed that liberals will support any initiatives put forth by Democratic President Barack Obama, while looking to achieve conservative support whenever possible.

### *Presidential View*

President Obama has blamed “outdated laws and regulations, inadequate food inspections and lack of resources at the Food and Drug Administration” for the recent mishaps. In order to tackle this issue, Obama has begun by appointing new people to lead the way in food safety regulation, such as New York City health commissioner Margaret Hamburg as FDA Commissioner, and Baltimore health commissioner Joshua Sharfstein as the FDA’s Head Deputy. Additionally, President Obama plans to create a Food Safety Working Group to advise him on legislation and ways to improve regulations. Additionally, Obama has pledged to invest a billion dollars in the improvement of both food inspection and testing.

## Questions to Consider

In considering exactly how to craft effective, beneficial legislation, it is important to keep a few main questions in mind to help you stay on track. Consider your **constituency**—are you representing a state with a large population of small farmers? If so, you must consider how their farming needs will be affected by every piece of proposed legislation you debate. Consider the other party. While increased food safety is a goal supported by the majority of both parties, there may be differences in opinion on how to achieve this goal. Keep in mind that in some cases, you may need to be open to compromise in order to reach a common end.

**constituency**—a group of people who support a particular politician, organization, or political issue

## Conclusion

It is undeniable that the current state of US food safety is in dire need of reform. It is up to you, Senators, to debate amongst yourselves and arrive at a solution that works for all involved. Because of the broad scope of the US food safety system, a single bill may not be enough to cover the many needs of the current situation. Take care to truly explore the various pieces of this problem, and devise practical and effective solutions that will help to guarantee Americans' health and confidence in the food we serve our children every day.

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Glossary

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