

### FOOD SAFETY WORKING GROUP RELEASES KEY FINDINGS

On July 7, 2009, President Obama's Food Safety Working Group (Working Group) released key findings (the Report) regarding food safety in the United States, including findings regarding *Salmonella*, *E. coli* O157:H7, a national traceback and response system, and improved organization of federal food safety responsibilities.<sup>1</sup>

#### I. BACKGROUND

President Obama announced the creation of the Working Group on March 14, 2009, to advise him as to how to upgrade United States food safety laws, foster coordination of food safety efforts throughout the government, and ensure that laws are being adequately enforced.<sup>2</sup> Health and Human Services Secretary Kathleen Sebelius and Secretary of Agriculture Tom Vilsack chair the Working Group. Participants include the U.S. Food and Drug Administration (FDA), the Food Safety and Inspection Service (FSIS), the Centers for Disease Control and Prevention (CDC), the Department of Homeland Security, the Department of Commerce, the Department of State, the Environmental Protection Agency, and several offices of the White House. The Working Group also gathered input from states and localities, the food industry, consumer advocates, other experts, and members of the public.

The Working Group Report notes that challenges to the United States food safety system include new disease agents, an increasingly globalized food supply chain, changes in the U.S. population, and new dietary patterns. The Working Group's approach is based on three core principles: (1) prioritizing prevention; (2) strengthening surveillance and enforcement; and (3) improving response and recovery.

#### II. IMPLEMENTATION OF KEY FINDINGS

The Obama Administration announced the following steps to implement the Working Group's key findings:

##### A. *SALMONELLA*: PREVENTING IN EGGS AND CUTTING THE RISK IN POULTRY PRODUCTS

FDA is issuing a final rule on egg safety to control *Salmonella* contamination of eggs during production.<sup>3</sup> The rule requires measures to prevent the *Salmonella* Enteritidis contamination of shell eggs during production and

<sup>1</sup> See Food Safety Working Group, Key Findings, [http://www.foodsafetyworkinggroup.gov/FSWG\\_Key\\_Findings.pdf](http://www.foodsafetyworkinggroup.gov/FSWG_Key_Findings.pdf) (hereinafter Report). Additionally, a Fact Sheet summarizing the Working Group's recommended approach to food safety is posted at [http://www.foodsafetyworkinggroup.gov/FSWG\\_Fact\\_Sheet.pdf](http://www.foodsafetyworkinggroup.gov/FSWG_Fact_Sheet.pdf).

<sup>2</sup> Press Release, Office of the Press Secretary, White House, Weekly Address: President Barack Obama Announces Key FDA Appointments and Tougher Food Safety Measures (Mar. 14, 2009), [http://www.whitehouse.gov/the\\_press\\_office/Weekly-Address-President-Barack-Obama-Announces-Key-FDA-Appointments-and-Tougher-F/](http://www.whitehouse.gov/the_press_office/Weekly-Address-President-Barack-Obama-Announces-Key-FDA-Appointments-and-Tougher-F/).

<sup>3</sup> 74 Fed. Reg. 33030 (July 9, 2009), available at <http://edocket.access.gpo.gov/2009/pdf/E9-16119.pdf>.

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refrigeration of the eggs during storage and transport.

FSIS will develop new standards to reduce the prevalence of *Salmonella* in turkeys and poultry by the end of the year. It will also establish a *Salmonella* verification program with the goal of having 90 percent of poultry establishments meeting the new standards by the end of 2010.

### **B. *E. COLI* O157:H7: STEPPING UP ENFORCEMENT IN BEEF FACILITIES AND PREVENTING CONTAMINATION OF LEAFY GREENS, MELONS, AND TOMATOES**

By the end of July 2009, FSIS will issue improved instructions to its workforce on how to verify that establishments that handle beef are acting to reduce the presence of *E. coli* and increase its sampling to find this pathogen, focusing largely on the components that go into making ground beef.

Also by that time, FDA will issue commodity-specific draft guidance on preventive controls that industry can implement to reduce the risk of microbial contamination in the production and distribution of tomatoes, melons, and leafy greens, which are intended to help the federal government establish a minimum standard for production across the country. Over the next two years, FDA will seek public comment and work to require adoption of these approaches through regulation.

### **C. NATIONAL TRACEBACK AND RESPONSE SYSTEM**

The Council to Improve Foodborne Outbreak Response will soon issue new "Guidelines for Foodborne Disease Outbreak Response." Later this month, federal food safety agencies will ask state and local agencies to update their emergency operations procedures to be consistent with those guidelines, with the goal of a quicker response and better communication and coordination by federal, state, and local agencies.

The federal government will enhance the website [www.FoodSafety.gov](http://www.FoodSafety.gov), to better communicate information to the public and include an improved individual alert system allowing consumers to receive food safety information, such as notification of recalls. Agencies also will use social media to expand public communications. The first stage of this process is intended to be complete in 90 days.

FDA will issue draft guidance, within three months, on steps the food industry can take to establish product tracing systems to improve our national capacity for detecting the origins of foodborne illness. Also by that time, federal agencies will implement a new incident command system to address outbreaks of foodborne illness, an approach that will link all relevant agencies, as well as state and local governments, more effectively, to facilitate communication and decision-making in an emergency.

FSIS will improve collaboration with states within six to twelve months, through additional hires to and expanded outreach of its public health epidemiology liaison program to state public health departments.

Additionally, CDC will work with collaborating states to evaluate and optimize best practices for aggressive and rapid outbreak investigation. Within 12 months, CDC will launch a new system to facilitate information-sharing and adoption of best practices.

## D. IMPROVED ORGANIZATION OF FEDERAL RESPONSIBILITIES

Later this month, FDA will create a new position, Deputy Commissioner for Foods, which will report to the Commissioner and will oversee and coordinate its efforts on food, including food safety. The Deputy Commissioner for Foods will be empowered to restructure and revitalize FDA's activities, and to work with FSIS and other agencies to develop a new food safety system. Within the next three months, USDA will create a new position at FSIS, Chief Medical Officer, which will report to the Under Secretary for Food Safety with the goal of enhancing USDA's commitment to preventing foodborne illness.

The Administration intends to work with Congress on food safety legislation it believes will provide key tools for FDA, FSIS, and the federal government to keep food safe. Such tools cited by the Working Group include the ability to require sanitation and preventive controls at food facilities based on a scientific hazard analysis, to access basic food safety records at facilities, and to use resources flexibly to target food at the highest risk and achieve the maximum public health gain, as well as to establish mandatory recall authority.

The Report states that the Working Group will continue to "serve as a mechanism to break down stovepipes, address cross-cutting issues and increase coordination of food safety activities across the U.S. government" and "will monitor the implementation of its recommendations, regularly assess performance metrics, ensure that food safety policies are adequately coordinated with efforts to safeguard the food supply from deliberate tampering, and respond to new challenges."<sup>4</sup>

If you have any questions concerning the material discussed in this client alert, please contact the following members of our food & drug practice group:

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<sup>4</sup> Report at 5.