

## USDA Food Safety Data Plan Hints At Larger Institutional Goals

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On July 11, 2016, U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) announced[1] that it will soon begin sharing more food safety data regarding slaughter and processing facilities on data.gov.[2] Under the system, FSIS contemplates that it will routinely release certain information for the first time regarding establishment processes, pathogen sampling data, chemical sampling data, and advanced meat recovery testing data.

FSIS is the arm of the USDA that inspects meat, poultry and processed-egg-product facilities to ensure that the food they produce is safe, wholesome and properly labeled. Its inspections generate a large volume of data that is primarily disclosed at present through responses to requests for data pursuant to the Freedom of Information Act.

FSIS began exploring in 2010 how to share establishment-specific data with the public in response to policies issued by the Obama administration and the Office of Management and Budget calling for increased data sharing and greater transparency. Its effort resulted in the Establishment-Specific Data Release Plan,[3] which details the framework for release of the safety data that FSIS collects.

According to the data release plan, FSIS intends to release such information one new data set at a time, on a quarterly basis, although disclosures may be less frequent to start. It will initially provide information regarding processes used at inspected establishments and provide more detail than is currently available in the searchable establishment directory on its website. FSIS will also provide a code for each facility for more user-friendly sorting and viewing. Additionally, FSIS will release results for *Listeria monocytogenes* (Lm) and *Salmonella* in ready-to-eat (RTE) products and processed egg products.

FSIS will also share other datasets, including results for Shiga Toxin-producing *Escherichia coli* (STEC) and *Salmonella* in raw, nonintact beef products; results for *Salmonella* and *Campylobacter* in young chickens and young turkeys, comminuted poultry and chicken parts; routine chemical residue testing data in meat and poultry products; and advanced meat recovery testing data. All of these categories are on the agency's priority list. Given the quarterly roll-out strategy, it will take a minimum of three years before this process is completed.

It will also consider the future release of inspection task data, humane handling task data, import inspection task and sampling data, and food safety assessments. All of the new datasets will be



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published on data.gov on a quarterly basis, beginning 90 days after publication in the Federal Register.

FSIS will determine whether to release datasets to the public based on an evaluation of certain criteria, including:

- Whether the data is already eligible for release through a formal FOIA request;
- Whether the data contains personally identifiable information for FSIS personnel;
- The potential effect on the public's health and on the regulated industry;
- Whether the data contains corporate proprietary data;
- Expected FSIS personnel and monetary costs to release and maintain the data;
- The estimated utility of releasing the data;
- The potential for misunderstanding or misuse of the data; and
- The security implications to FSIS and the regulated industry.

According to FSIS such criteria were developed to require evaluation and balancing of the potential costs associated with the release of the data, such as the misuse or misunderstanding of data, or the inadvertent release of confidential information. In response to an earlier notice involving the plan, a commenter suggested that FSIS adopt a due-process mechanism to prevent the release of data that could be easily misinterpreted, and requested that industry be allowed to examine data and user guides before they are released to the public. FSIS responded that its staff will thoroughly evaluate every dataset to determine whether there is the potential for misinterpretation and, if so, will either include additional explanatory information or will not release the dataset.

Further, FSIS intends to release the datasets with user guides and will share the user guides with industry stakeholders prior to their release. Agency officials have suggested that in this context they will be receptive to suggestions on proper characterization of such data, but less receptive to blanket suggestions that the release should simply not take place.

Putting the Obama administration's broader transparency goals aside, the announcement seems to reflect FSIS's pursuit of its own institutional goals as well. The agency continues to struggle with reconciling its long-term goals regarding pathogen reduction with the reality that, with the notable exception of some strains of E.coli in some beef products, raw meat and poultry that contain such pathogens remain eligible for the mark of federal inspection.

The agency's uncertain history with the concept of so-called "performance standards" is one reflection of this dilemma, and this data-sharing announcement is another. But it seems clear that through this approach, FSIS is hoping that such publicity will provide additional stimulus for a race to the top in the area of pathogen reduction.

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[1] Press release, FSIS, FSIS to Begin Posting Location-Specific Food Safety Data Online (July 11, 2016), <http://www.fsis.usda.gov/wps/portal/fsis/newsroom/news-releases-statements-transcripts/news-release-archives-by-year/archive/2016/nr-071116-01>.

[2] <https://www.data.gov>

[3] <http://www.fsis.usda.gov/wps/wcm/connect/0803f8a0-a3cc-4945-87b6-f992acdcfa9b/Establishment-Specific-Data-Plan-Final.pdf?MOD=AJPERES>

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