



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

Recommendations for Legislative and Executive Branch Action

September 2010

derived from

Driving the Fox from the Henhouse: Improving Oversight of Food Safety at FDA and USDA Scientific Integrity Program, Union of Concerned Scientists

Our survey respondents described a food safety system where special interests and political interference all too often inhibit the ability of the FDA and USDA to protect our food supply. In light of these concerns, we urge both the Administration and Congress to take action this year. Reforms aimed at restoring scientific integrity are needed as well as a strong food safety law. American families should not have to wait any longer to get the protections they expect and deserve.

Legislative Actions

An effective food safety law should:

- Give FDA and USDA full authority to mandate food recalls and give FDA more resources to protect food safety. **Nearly half – 47 percent – of FDA scientists and inspectors who responded to the survey disagreed or strongly disagreed that the FDA had “sufficient resources to effectively perform its mission.”**
- Increase the frequency of FDA inspections and shorten the interval between inspections. Ideally, all food facilities should be inspected annually, with high-risk or problem facilities inspected every six months¹. **By a margin of 75 to 3 percent, survey respondents said that “increasing the frequency of food safety inspections conducted by the FDA” would improve rather than worsen food safety.**
- Include a mandate from Congress that the FDA develop performance standards, based on the best available science on epidemiology and health information, with the goal of eliminating, or at least substantially reducing, hazards to public health in the food supply. It would include a requirement that food facilities develop a safety plan that conforms to these standards and identifies potential risks, how to prevent them, and how to most effectively address problems that arise.² **By a margin of 71 percent to 5 percent, survey respondents said that “requiring each food production facility to conduct a science-based hazard analysis and implement preventive controls” would improve rather than worsen food safety.**

¹The House bill requires that high-risk facilities be inspected every six to 12 months, with low-risk facilities inspected sometime within 18 months and three years, and warehouses inspected once every 5 years. The Senate bill proposes longer intervals between inspections, and has only a two-tier inspection schedule: high-risk and low-risk facilities.

²The House and Senate bills impose such preventive standards requirements.

- Require that the FDA have access to all pertinent food company records to determine whether a food product has been adulterated or misbranded, and that those records be accessible in an electronic format. Viewing records should be part of the routine inspection process, and would not require a written request from federal regulators to the company³. **Nearly a third of respondents – 27 percent -- had within the past year personally experienced “instances where the public health has been harmed by businesses withholding information from agency investigators.”**
- Significantly increase surveillance of food imports. At present, only about 1 percent of our food imports are subject to federal inspections. The USDA more rigorously inspects imported meat and poultry, with exports not permitted into the country until the agency’s Food Safety Inspection Service determines the country’s safety standards are at least as high as the U.S.⁴. **Only 35 percent of respondents were completely or mostly confident in the safety of imported foods.**
- Protect federal and private sector whistleblowers in the food industry who expose unsafe food conditions. (The House and Senate bills have comprehensive whistleblower protections for private-sector workers, but do not provide the same protections to federal workers. Congress must enact comprehensive whistleblower legislation that protects all federal employees who expose waste, fraud and abuse and threats to public health and safety.) **By a margin of 70 percent to 2 percent, respondents felt that strong whistleblower protections for public and private employees who expose problems affecting the food supply would enhance food safety.**

Executive Branch Actions

In a scientific integrity memorandum in March of 2009, President Obama asked the Office of Science and Technology Policy to develop a plan aimed at ensuring the integrity of federal science. While the memo lays out guiding principles to improve transparency in policymaking, ensure that well-qualified individuals are appointed to science positions, and protect those who expose abuse of science, survey results document ongoing political interference one year later. The Obama administration should:

- Immediately release a scientific integrity plan with specific guidelines and benchmarks to measure accountability to fully implement these important principles. **A total of 507 respondents (34 percent) had personally experienced one or more incidents of political interference over the past year⁵.**

³The House bill gives access to those records, without the FDA having to prove that the public safety is at risk; the Senate bill would continue to require a written request and access to records is conditioned on whether the HHS Secretary believes there is a serious health risk. Neither bill requires access to records in an electronic format.

⁴Both House and Senate bills would tighten up scrutiny of imported food, and require importers to verify that the food products coming into the country comply with federal food safety regulations.

⁵ The survey was filled out from March 26, 2010 to May 20, 2010.

- Include strong whistleblower protections in its plan. **By a margin of 70 percent to 2 percent, survey respondents said that “establishing strong whistleblower protections for private or public employees who report problems affecting the food supply” would improve rather than worsen food safety.**
- Opening up federal science and decision making to scrutiny from Congress and the public is an important, and inexpensive, means of exposing and ending political interference in science. **105 respondents (10 percent) had frequently or occasionally received requests from agency decision makers to inappropriately exclude or alter technical information or conclusions in an agency scientific document.**
- Allow scientists and researchers to express their personal views outside of a few narrow restrictions (such as releasing classified or proprietary information). Provided that a scientist makes an explicit disclaimer that they are speaking as a private citizen and are not seeking to represent official agency policy, they should be allowed to speak freely about their research and to offer their **scientific** opinions—even in situations where the research may be controversial or have implications for agency policy. **A majority of survey respondents with advanced degrees (217 respondents or 59 percent) disagreed or strongly disagreed that they are currently “allowed to speak to the public and the news media about my scientific research findings, regardless of the level of controversy on the topic.”**
- Give scientists and researchers the right to review, amend, and comment publicly on the final version of any document or publication that significantly relies on their research, identifies them as an author or contributor, or purports to represent their scientific opinion. **One hundred and five respondents (10 percent) had frequently or occasionally received requests from agency decision makers to “inappropriately exclude or alter technical information or conclusions in an agency scientific document.” 140 respondents (13 percent) had frequently or occasionally experienced “changes or edits during review that change the meaning of scientific findings that occur without a meaningful opportunity to correct them.”**
- Release official agency documents or scientific reports that form the basis of policy when draft policies leave agencies for interagency or OMB review. **One hundred and ninety respondents (16 percent) frequently or occasionally experienced selective or incomplete use of data to justify a specific regulatory outcome.”**
- Require federal agencies to institute a transparency policy for meetings with outside entities under which the agency posts on its website a complete record of all meetings including with for-profit and not-for-profit organizations, other agencies, and individuals (with the exception of meetings related to national security). **Six hundred and twenty one respondents (38 percent) agreed or strongly agreed that “public health has been harmed by agency practices that defer to business interests.”**

- Government employees writing or enforcing regulations should disclose all conflicts of interest and any previous employment that might affect or appear to affect their ability to independently do their job. They should be required to recuse themselves from decisions involving a former employer. **Five hundred and one respondents (31 percent) agreed or strongly agreed that the presence of top agency decision makers who have come from the food or agricultural industry “inappropriately influences the decisions made by the agency.”**