

Prepared Statement

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Introduction

Good morning Chairman Harkin, Ranking Member Enzi, and Members of the Committee. My name is Tom Stenzel and I am President and CEO of the United Fresh Produce Association. Our organization represents more than 1,500 growers, packers, shippers, fresh-cut processors, distributors and marketers of fresh fruits and vegetables accounting for the vast majority of produce sold in the United States. We bring together companies across the produce supply chain from farm to retail, including all produce commodities, both raw agricultural products and fresh ready-to-eat fruits and vegetables, and from all regions of production.

I mention these characteristics because our organization's views on food safety are shaped by this broad and diverse membership across the entire produce industry, not any one sector or region. In the area of science and food safety, our association works to develop industrywide consensus on the best overall policies and practices to serve the American consumer.

Let me begin by repeating something you've heard many times before, and will hear many times in the future. Food safety is our industry's top priority. The men and women who grow, pack, prepare and deliver fresh produce are committed to providing consumers with safe and wholesome foods.

That is what drives food safety to be a process of continuous improvement, not a static achievement. We are on a continuum constantly striving to improve, while understanding scientifically that perfection – or zero risk – is not possible. Because our products are enjoyed by consumers in their fresh and natural state without cooking, we have to be right every single time – not one in a million, or even one in a billion.

Now, I personally am confident in my produce choices today. I know the personal care and commitment of people I meet who are growing and processing fresh produce, and I trust them to be doing their very best to market safe products. And I know that their results are overwhelmingly successful, with the actual incidence of illness extremely low. Just look at the numbers.

- Over a billion servings of fresh produce are eaten every day.
- More than 5 million bags of fresh salads are sold every day.
- And, out of the hundreds of fruits and vegetables offered in a typical supermarket, only a very few have been implicated in illness outbreaks, and then rarely as compared with their volume of consumption.

But, we also know that consumers today are walking into grocery stores and restaurants with concerns, doubts, and sometimes fears about produce. They don't understand those statistics; they don't know what farmers and processors are doing to protect the safety of their produce; and equally important, they do not have complete confidence that government is doing all it should to protect their health.

Most importantly, we cannot lose sight that health experts are unanimous that Americans must increase our consumption of fruits and vegetables for better health. That's the juxtaposition we face today on food safety – it is simply unacceptable for Americans to fear consuming fresh fruits and vegetables that are essential to their good health.

Principles for Produce Safety

Mr. Chairman, we have worked together to promote increased consumption of fresh fruits and vegetables for the health for America's children for many years, and you know that our industry's commitment to safety is the bedrock of that effort. Our commitment to produce safety is twofold.

First, we will do everything we possibly can as an industry to ensure the safety of the products we grow, package and deliver to consumers. Our association published the first *Food Safety Guidelines for the Fresh-Cut Produce Industry* 17 years ago, and we are now on our 4th edition. We developed the first industry guidelines in the mid 1990s to minimize on-farm microbiological food safety risks for fruits and vegetables, and worked closely with the FDA to publish federal guidelines soon thereafter. Food safety has been at the forefront of our mission to serve the American public for many years.

Following the E coli outbreak associated with one brand of spinach in September 2006, we undertook a comprehensive reevaluation of leafy greens production, handling and processing to enhance every possible step we could take in assuring safety. Even though that problem was isolated to one small farm, the entire leafy greens industry has adopted the most rigorous scientific principles to minimize risk, and developed compliance protocols and audits that are now conducted by state government officials.

Other commodity groups have done likewise, with the tomato industry implementing rigorous standards and metrics that even been incorporated in state law in Florida.

Earlier this year, our association brought together worldwide leaders in produce safety standards and auditing, launching an ongoing initiative to drive harmonization around the most rigorous set of good agricultural practices known as GAPs, applicable to all produce operations.

And, the committee should be familiar with our Produce Traceability Initiative (PTI), an industrywide commitment launched by three major trade associations in 2008 to drive a standardized, total supply chain traceability system with case coding to allow rapid traceback and isolation of any potential problems.

I can tell you with certainty today, that produce is safer today than ever before, with an unprecedented commitment from food safety from field to table.

Yet, we too know that there must be changes in our federal system of food safety oversight to restore public confidence in what too often appears to be a broken system. We have seen the failures of food safety oversight up close, first in failing to provide the resources and focus on prevention of contamination where most likely to occur, and second in misguided management of outbreak investigations that confuse the public about true risk and cast entire industry sectors into doubt.

In order to address these issues, our Board of Directors took the bold step three years ago to adopt a series of policy principles calling for mandatory, science-based regulation by the federal government. Let me repeat those principles once more:

To protect public health and ensure consumer confidence, produce safety standards:

- *Must allow for a commodity-specific approach, based on the best available science.*
- *Must be consistent and applicable to the identified commodity or commodity sector, no matter where grown or packaged in the United States, or imported into the country.*
- *Must be federally mandated with sufficient federal oversight of compliance in order to be most credible to consumers.*

Since that time, our industry has been a leading proponent of strong federal government oversight of food safety, testifying before the House or Senate more than 10 times, working extensively with FDA and USDA, and sharing perspectives with other stakeholders and the consumer community.

We are pleased that the consensus in Congress has grown in support of these principles, which have largely been incorporated into H.R. 2749 the Food Safety Enhancement Act passed by the House, and S. 510 the Food Safety Modernization Act of 2009 introduced by Senators Durbin and Burr and colleagues.

As this committee and the Senate consider changes to our food safety laws, let me explain the importance of each of these principles.

- Must allow for a commodity-specific approach, based on the best available science. We believe produce safety standards must allow for commodity-specific food safety practices based on the best available science. In a highly diverse industry that is more aptly described as hundreds of different commodity industries, one size clearly does not fit all. For example, the food safety requirements of products grown close to the ground in contact with soil are far different from those grown on vines or trees. And, the large majority of produce commodities have never been linked to a foodborne disease. In fact, a recent FDA federal register notice confirms that five produce commodities have been associated with 80% of all foodborne disease outbreaks in the past 10 years, and that is where we must direct our resources.

In addition, government and industry alike must be careful that broad strokes do not result in requirements that should not apply to specific commodities, and do nothing to enhance safety. Taking a general approach would be far too easy to add regulatory costs and burdens to sectors where those requirements are unneeded, without doing anything to enhance safety where most critical. Finally, as part of this commodity specific approach, FDA must develop a rule-making procedure that establishes risk and science-based regulations for the production, handling and distribution of those types of

fruits and vegetables for which the Secretary determines such standards are necessary to minimize the risk of microbial illness.

- Must be consistent and applicable to the identified commodity or commodity sector, no matter where grown or packaged in the United States, or imported into the country. We believe produce safety standards must be consistent for an individual produce commodity grown anywhere in the United States, or imported into this country. Consumers must have the confidence that safety standards are met no matter where the commodity is grown or processed. Because of the variation in our industry's growing and harvesting practices in different climates and regions, flexibility is very appropriate and necessary. For example, some production areas use deep wells for irrigation while others use river water supplied from dams. Some farms use sprinkler irrigation, others use a drip system laid along the ground, and still others use water in the furrows between rows of produce. But the common factor must be that all uses of water for irrigation must meet safety standards that protect the product. That must be true whether the produce is grown in California, Florida, Wisconsin or Mexico.
- Must be federally mandated with sufficient federal oversight of compliance in order to be most credible to consumers. We believe achieving consistent produce safety standards across the industry requires strong federal government oversight and responsibility in order to be most credible to consumers and equitable to producers. We believe that the U.S. Food and Drug Administration, which is the public health agency charged by law with ensuring the safety of the nation's produce supply, must determine appropriate nationwide safety standards in an open and transparent process, with full input from the states, industry, academia, consumers and all stakeholders. We are strong advocates for food safety standards based on sound science and a clear consensus of expert stakeholders.

In turn, it is important for FDA to work with its partners at the USDA and state departments of agriculture to ensure compliance with produce safety standards. We do not see a need for thousands of new FDA inspectors moved from processing plants to farms and fields, but rather a close working relationship with the USDA that understand agricultural production and can better monitor and assure compliance with FDA rules.

Together, these three policy principles provide a direction for food safety regulatory policy that we believe would most help our industry enhance produce safety, concurrent with establishing the highest level of public trust in our industry and in our fresh produce offerings. It is our goal to support a U.S. regulatory framework for the fresh produce industry that incorporates these principles.

Outbreak Investigations

While most of my testimony today is rightly focused on what we can do to prevent illness associated with our products, I must also include comments about the current management of outbreak investigations by federal, state and local government.

In testimony I presented last summer to the House Energy and Commerce Committee, I discussed the multitude of failures evident in the *Salmonella* Saintpaul outbreak in 2008 that was eventually linked to jalapeño peppers, but only after shutting down the tomato industry. In that testimony, I highlighted several fundamental flaws in outbreak management that I believe should also be addressed in reform of food safety laws.

1. Diffuse Responsibility Creates Lack of Accountability

The diffuse responsibility for public health in outbreak investigations results in no one agency or individual in charge, leaving local, state, and federal officials vying for leadership; various agencies pursuing different priorities; and well-meaning individuals reacting independently to events rather than as part of a coordinated investigation moving forward in a logical and expeditious direction. Another indicator of this problem is the lack of a coordinated national training program for investigators at the federal, state and local level. The resulting inconsistency of field work in these investigations is a major impediment to accurate and timely results.

We suggest Congress direct the Administration to put in place an outbreak investigation structure with a clear chain of command. Take guesswork out of who's in charge, and drive real authority and accountability into the process. We suggest examining the system for National Transportation and Safety Board investigations, which from afar, seems designed for a 24-7 immediate response, with clear authority and command leadership, supported by a team of well-prepared experts. Simultaneously, HHS should mandate and provide the resources for nationally consistent training for all local, state and federal employees involved in food safety investigations and inspections.

2. The Current System Doesn't Use Industry Expertise

The government's failure to use industry's expertise in outbreak investigations is one of our most important lessons. Let me first say that this needs to be a transparent process in order to have public credibility. But there is an abundance of knowledge in the industry about specific commodities, growing regions and handling practices, and specific distribution systems that can be used to protect public health in an outbreak. Based on geographic distribution patterns of illnesses alone, industry representative advised FDA quickly that tomatoes were extremely unlikely to be the source of contamination, yet such input was ignored until proved correct six weeks later when jalapenos chopped up in salsa were linked to the outbreak.

Congress and the agencies should find a proper and transparent way to bring industry expertise into its investigations. We specifically recommend that a group of experts in major produce commodities be selected and vetted by government well ahead of time, perhaps through a process similar to gaining a security clearance. Then, at a moment's notice, these pre-cleared experts could be assembled with government investigators to provide counsel in their areas of expertise.

3. Today's Risk Communication Is Unacceptably Broad

These are complex issues indeed, and tough to explain. The principle of timely and candid communication with the press and public cannot be compromised. Yet, the public is not well-served by stoking fear of all spinach, or all tomatoes, or any other commodity when the actual risk is very limited. Consider this fact – the 2006 E coli outbreak linked to spinach is now known to have been limited to one farm, one processing plant, on only one day's production run. There have been no further illnesses since that time reportedly linked to spinach. Yet, consumption of this nutritionally packed vegetable is still down from where it was three years ago. Public health is not well served by such misplaced fears.

Congressional Food Safety Legislation

Let me now discuss our thoughts on S. 510 the Food Safety Modernization Act now before the Senate. We support this bill as an aggressive and comprehensive approach to reforming food safety law. While we would like to see further direction to HHS for improving outbreak investigations, we believe many of the tough issues have been addressed in this legislation, leading to the bipartisan nature of it co-sponsors.

Specifically, we applaud the bill's commodity-specific approach to produce, which necessarily focuses resources where most needed. We applaud the bill's requirement that FDA work with USDA and the states in implementation and compliance measures. And, we applaud the bill's mandate for an expedited entry program for imports that can demonstrate compliance with U.S. food safety standards.

I also want to urge the committee to reject calls to "water down" the food safety requirements in the bill as a way to satisfy some who say that small farms, organic farms, or others should not have to comply. Mr. Chairman, I have a number of small farms and organic farms in our membership, and all are committed to following whatever food safety rules that FDA deems to be important to protect public health. Size does not determine whether food safety is important – every consumer's health is just as important whether purchasing vegetables at a farmers market or a grocery store. Our industry has learned the painful lesson that we are only as strong as our weakest link. If Congress truly wants to build public confidence in our food safety system, all fruits and vegetables must comply with basic safety rules no matter where or how grown.

Rather than seek exemptions from basic food safety requirements, we believe technical assistance, training and financial support – including reduced fees for all small businesses – are more appropriate ways to assist small resource farmers and produce distributors to comply with important food safety and traceability standards. We are confident that every produce grower – in this country or abroad – should be able to comply with the commodity-specific standards and guidance anticipated from FDA for the safe production and handling of fruits and vegetables.

We urge the committee to move swiftly in deliberations on S. 510 in order to allow Senate consideration this year. With H.R. 2749 pending, passage of S. 510 would provide strong Senate leadership in conference to formulate final bipartisan legislation that can be broadly supported by both chambers, industry and consumers.

Conclusion

In conclusion, let me return to the important role fresh fruits and vegetables play in public health. Of course any reasonable person in the food industry would want to produce only the safest possible product. But for us, somehow it seems even more important because of the healthfulness of fresh produce. The very Department of Health and Human Services that regulates our safety has the dual responsibility to promote the importance of eating more fruits and vegetables to prevent chronic diseases such as cancer, heart disease, stroke, and more. And now, our nation is faced with an obesity crisis that threatens the long-term health of our children and out-of-control escalation in health care costs unless we radically change eating habits to consume more fruits and vegetables.

With that public health imperative, fears of food safety have no place in the fresh produce department. We, as an industry, must do all we can to prevent illnesses from ever occurring, and we will.

But because science tells us there is no such thing as zero risk, government must also be able to assure the public that even if something does go horribly wrong in an isolated case, consumers can continue to have confidence in fresh produce. We must all be able to trust the overall system of government oversight and industry responsibility, working together to produce the safest possible supply of fresh, healthy and nutritious fruits and vegetables.