

2011 Government Relations Priorities



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United Fresh Produce Association is headquartered in Washington, D.C. for one reason – to provide the fresh produce industry with unparalleled access to and representation among federal policy makers. Our goal everyday is to deliver unmatched value to our members in shaping legislative, regulatory, political and legal solutions to challenges threatening the industry's growth and profitability, while developing opportunities for success in your business. With a membership that includes fruit and vegetable growers, distributors, fresh-cut processors, supermarkets and restaurants; small, medium and large businesses; and hundreds of produce commodities, United Fresh unites the entire produce community into a common voice before our nation's elected leaders.

Each year, the United Fresh Board of Directors, Government Relations Council, members and industry partners evaluate and determine the overarching government relations priorities for the upcoming year. It is critical to focus on a core group of issues for maximum impact, but still allow for some level of action on a wider variety of public policy issues affecting the produce business. Members expect United Fresh to focus on major priorities, but not turn away from other more narrow, yet important, issues. The 112th Congress brings the produce industry many challenges and opportunities with the election of 101 new Members of Congress. Most importantly, with any new Congress, our industry needs to continue building strong relationships that will help us shape policy initiatives that promote our ability to deliver the most nutritious and abundant food supply to the American consumer. These initiatives must help ensure a fair and level playing field for all businesses in which growth and success are limited only by a company's innovation, creativity and hard work. Below is a list of proposed government and regulatory priorities for 2011.

Shaping Implementation of New Food Safety Law, General Policy

On December 21, 2010 Congress passed S. 510, the FDA Food Safety Modernization Act of 2010 and the President signed this legislation into law on January 4, 2011. This law represents the most sweeping changes to U.S. food safety policy in over 70 years. Implementing this law will require over a dozen separate rulemakings and at least 10 guidance documents. The implementation of the legislation will take more than three years.

- 1. Ensure that regulations implementing the law are based on sound science, consistent with Congressional intent, and appropriate for the produce industry –** United Fresh must shape regulations to implement all aspects of the new law, including produce production standards, preventive controls and food safety plans for facilities' owners, traceability, imported foods, and more.
- 2. Assist Congress in oversight of the new food safety law –** In cases where regulatory proposals are inadequate or inappropriate, United Fresh will work with Congressional allies to utilize their oversight responsibility to address policy issues and Congressional intent with this new legislation.

- 3. Eliminate the “Tester Amendment” through legislative action** – United Fresh will work with Congressional allies to amend the current law to eliminate any exemptions that are not based on risk.
- 4. Work with FDA and CDC to implement a new framework for foodborne illness investigations** – We must ensure that industry provides food safety regulatory agencies the best scientific, regulatory, legal and risk communications expertise. United Fresh will continue to work with the agencies to improve investigations of foodborne disease outbreaks.
- 5. Drive produce safety research to industry’s prioritized needs** – Federal research dedicated specifically to fruit and vegetable food safety is critical in preventing future foodborne outbreaks. With the successful dedication of mandatory funding in the Farm Bill through the Specialty Crop Research Initiative, we have found that the demand outpaces the current funding levels through this important program. However, the Farm Bill allows for appropriators to incorporate additional funding providing an opportunity to enhance research funding targeted for fruits and vegetables.
- 6. Improve government micro testing programs** – FDA and many state and local public health field investigators are now collecting retail packages of produce for pathogen testing. Yet, testing protocols vary tremendously, as regulatory response to positive samples. The USDA Microbiological Data Program (MDP) and FDA field assignment testing must develop sound and replicable protocols. Then, regulatory agencies at the state and federal level must agree on the appropriate steps to protect public health, without massive penalty to growers, when a positive sample unrelated to any illness, is found.

Shaping Nutrition Policy to Increase Fruit & Vegetable Consumption

United Fresh leads the produce industry in shaping nutrition policy to drive increased consumption of fresh fruits and vegetables. The coming year will be challenging, often defending programs from potential budget cuts more than expanding spending.

- 1. Shape USDA’s regulation to revise school meals** – USDA is expected this month to publish a proposed rule to update nutrition standards for school meals based on the Institute of Medicine’s (IOM) School Meals: Building Blocks for Healthy Children report. United Fresh will organize a working group of members to submit comments on the proposed rule and work to ensure that USDA’s rule has fidelity to the IOM’s recommendation to increase variety and double the amount of fruits and vegetables served.
- 2. Ensure that agriculture appropriations fund key programs**– Through agriculture appropriation legislation, United Fresh will work to boost the cash-value of the WIC fruit/vegetable vouchers provided to 4.7 million WIC children to the full value as recommended by the Institute of Medicine. In addition, Congress needs to address through the appropriation process language that will allow salad bars to be purchased with any future federal funds. Currently, schools cannot use federal funds to purchase cafeteria equipment that costs less than \$5,000. Therefore, many schools were denied the opportunity to purchase salad bars with the ARRA and FY10 agriculture appropriations cafeteria equipment funds. Finally, we anticipate having to fend off budget challenges to existing programs, potentially including the USDA Fresh Fruit and Vegetable School Snack Program, and general WIC funding.
- 3. Begin building Congressional support for fruit and vegetable incentives in the SNAP program** – United Fresh will promote the emerging discussion on whether there

should be some allocation or incentives to purchase fruits and vegetables under the SNAP program (food stamps). This issue will not mature for several years, but the \$53 billion SNAP program will come under critical review in preparation for the 2012 Farm Bill. There is an increasing debate over whether food stamps should continue to be available to buy all forms of foods, or rather be tied to healthy foods such as in the WIC program. This will be a controversial debate, and the role of financial incentives for fruit and vegetable purchase may be an option that gains traction.

4. Support preliminary results from the Healthy Incentives Pilot – Along these lines, the 2008 Farm Bill provided \$20 million to test methods to incentivize SNAP recipients to purchase and consume more fruits and vegetables. In 2010, USDA awarded a grant to Massachusetts and ABT Associates to test and evaluate a 30% incentive applied instantly to SNAP EBT cards. United Fresh will work with USDA and Massachusetts regarding preliminary results, and also work with other stakeholders to highlight the results of local efforts to incentivize SNAP recipients to purchase and consume more fruits and vegetables.

5. Work with USDA to reform federal food procurement – Updated nutrition standards for school meals will double the amount of fruits and vegetables that must be served at school lunch and breakfast. USDA AMS and FNS must create a new paradigm for achieving this increase in fruits and vegetables with a primary focus on getting the types of foods kids want in order to double their intake. Yet, USDA continues to purchase only 3% of its fruit and vegetables as fresh produce. USDA has successfully pilot tested fresh-cut apples and baby carrots, which must be expanded nationwide. Without denigrating other forms, most people can understand and support the need for USDA to purchase more fresh produce for schools, with a goal of reaching parity with retail marketplace trends.

6. Ensure that USDA and states implement the Fresh Fruit and Vegetable Snack Program effectively – United Fresh will continue to work with USDA, regional offices, and states to provide training and technical assistance to improve implementation of the Fresh Fruit and Vegetable program in 2011. United Fresh will also provide assistance to the private management consultant now conducting an overall evaluation of the program.

7. Promote the 2010 Dietary Guidelines recommendations – The 2010/2011 Dietary Guidelines for Americans are expected to be published in late January 2011. The 2005 Dietary Guidelines recommended 5–13 servings of fruits and vegetables a day depending upon sex and weight. The coming Dietary Guidelines are expected to reinforce those amounts, with potentially stronger recommendations than ever about real behavior change. United Fresh will work to ensure that fruit and vegetable recommendations are clear, offering all stakeholders a platform for compelling communications messages and strategies.

Shaping Agricultural Policy to Support Fresh Produce Competitiveness

During the 112th Congress, we may see action on the reauthorization of the 2012 Farm Bill. However, with two new Chairmen in the House and Senate and a vastly revamped membership in both committees, we can expect to see additional oversight and budgetary policy discussions that may overshadow actual policy discussions on a new farm bill. United must work diligently to preserve the previous hard-won historic investment in funding to strengthen the produce industry's infrastructure and business competitiveness.

1. Develop a strong fresh produce policy agenda for the 2012 Farm Bill – The Specialty Crop Farm Bill Alliance is the core venue that will drive new and innovative policy solutions to help the fresh fruit and vegetable industry. Over the next several months, the

Alliance will be finalizing its set of policy recommendations for the next farm bill. Working with other fresh produce association allied members that are represented in the Alliance, United Fresh will work to enhance current programs that were implemented through the 2008 Farm Bill and advocate for new programs that will boost the business climate for our members. These programs include state block grants, research, conservation, pest and disease, trade, and nutrition programs.

Shaping Sound Environmental Regulatory and Legislative Policy

United Fresh believes that economic growth and environmental progress go hand in hand, and that responsible business and environmental leaders can work together to grow our economy and preserve the planet. In fact, produce industry members are committed to technological innovations and efficiency gains that will continue to improve our environment.

- 1. Ensure USDA Pesticide Data Program provides accurate interpretation –** USDA's Pesticide Data Program (PDP) begun in May 1991 publishes an annual summary of pesticide residues from testing agricultural commodities in the U.S. food supply, with an emphasis on those commodities highly consumed by infants and children. While always finding very low incidence of residues above EPA-determined safe levels, this data has been presented without sufficient interpretation and to put its findings in context. Unfortunately, this has allowed some activist groups to mislead consumers and seek to erode public confidence in the safety of fresh produce. United Fresh will work with USDA, EPA and other federal officials to ensure that future reports include more accurate interpretation and conclusions.
- 2. Prevent government regulation of sustainability –** The 2005 Farm Bill included a definition of "sustainable agriculture" but the federal government has not established specific guidelines as to how sustainability should be measured, verified or reported. Several multi-stakeholder groups, including the Stewardship Index for Specialty Crops, are addressing ways to measure sustainability in the produce supply chain. Grower sustainability programs should be voluntary, and any programs developed should be based on sound science, compatible with conventional agriculture, cost-effective and not generate competitive advantage for any production region or commodity.
- 3. Ensure energy policy and global warming initiatives do not harm produce industry interests –** The 111th Congress debated legislation directed at global warming concerns, including major cap-and-trade rules which would require businesses that emit carbon and other greenhouse gases to pay for those emissions (either through a tax or through auctions to purchase credits or allowances.) While this legislative effort failed, there will continue to be attempts through regulatory actions and some legislative initiatives (possibly through the 2012 Farm Bill) that will try to address global warming concerns. These include the EPA's intent to regulate greenhouse gas emissions as a pollutant in the absence of Congressional action. United Fresh will work to minimize the potential negative economic consequences of those initiatives and seek potential benefits for the produce industry (e.g.; carbon credits derived from sequestration activities).
- 4. Continue support for sound regulation of crop protection chemicals –** United Fresh has long been committed to sound, scientific regulation of crop protection chemicals. Given the current political and public climate, it is anticipated that legal and regulatory pressures may increase on these important tools. As a leader in the Minor Crop Farmer Alliance, United Fresh will continue to advocate for access to agricultural chemicals at scientifically-sound maximum residue limits.

Shaping a Workable and Achievable Immigration Policy

The industry is likely to continue to face many challenges with regard to immigration policy in the 112th Congress. Immigration reform remains a priority for the Administration, but will certainly face additional challenges in a divided Congress.

1. Drive comprehensive immigration reform in Congress, building a new alliance of stakeholders and consensus policies that can actually become law – The industry must take a step back and develop an immigration reform package that incorporates sound agriculture provisions, pragmatic temporary worker programs, realistic approaches to the current undocumented workforce in the United States, and reasonable requirements for the business sector dealing with employment verification processes. It is time to consider new solutions for immigration reform if we are ever to see real progress toward a solution.

2. Shape regulatory programs such as the H-2A program and employment verification – With the impasse of any significant legislative solutions related to immigration reform, United Fresh will continue to work with industry allies to evaluate the impact of regulatory changes affecting the produce industry's ability to address the current shortage of a viable workforce. This includes opposition to repeated attempts to repeal beneficial reforms to the H2-A guest worker program and, conversely, efforts to ensure that unreasonable burdens associated with the "no-match" rule are set aside. These efforts are intended to ensure that United Fresh members are afforded the best possible regulatory framework related to hiring practices, even in the absence of immigration reform.

Shaping a Positive Business Environment for the Industry

Ensuring the economic health of the fresh produce industry is a top priority for United Fresh. Public policy decisions can put undue restrictions and burdens on our business, or create an environment of opportunity for businesses to grow. We will continue to advocate for – or against – legislation and regulations that stimulate growth and opportunity for the produce industry members.

1. Achieve permanent repeal of estate tax – H.R. 4853, the Middle Class Tax Relief Act of 2010, was incorporated into a major tax bill passed by the Congress and signed by the President in late 2010. This law is a positive step in providing family-owned businesses with substantial relief. Key provisions include:

- A tax rate of 35%, effective January 1, 2011.
- An exemption of \$5 million, effective January 1, 2011.

However, this legislation is only effective for the next two years, and leaves great uncertainty for long-term estate planning. If not changed within the next two years, estate tax provisions return to the 2001 tax rate of 55% with a \$1 million exemption. United Fresh will make the permanent repeal of the estate tax a top priority for 2011.

2. Create a firewall against undue labor regulations, legislation – While the likelihood of passing federal card check legislation seems remote in this Congress, one can expect other labor initiatives and potential regulatory proposals that could erode sound labor practices and the balance between unions and employers. The National Labor Relations Board may potentially address decisions regarding union organizing, and the national industry will likely need to add its support to California members fighting potential labor initiatives of the new California state government.

3. Reduce negative impact of healthcare reform on produce companies – The healthcare legislation signed into law March 23, 2010 greatly expanded federal control of healthcare rules and practices. Now that the implementation of the law is underway, concerns are rising about higher costs, more mandates, and regulatory burdens on business. The healthcare reform law will be implemented over much of the next decade. From 2010 to 2013, changes largely involve new taxes, fees and mandates on individuals and small business. Most healthcare system changes begin in 2014 and later years. United Fresh will work with industry allies to shape regulations, and possibly legislative adjustments, to provide flexibility and best serve business needs.

4. Support free and fair trade policies, enhancing the competitiveness of the produce industry – Given the increasingly global nature of the fresh fruit and vegetable industry, United Fresh will continue to work with allies in ensuring that U.S. trade policy is comprehensive and produces tangible benefits. Provisions in bilateral or multilateral agreements should not violate international standards and thereby result in unreasonable restraints on fruit and vegetable trade. In particular, phytosanitary policy should be grounded in sound science. Additionally, green box programs, such as the Market Access Program, should continue to receive full funding as stipulated in the Farm Bill and the export enhancing program IC-DISC should be maintained in the federal tax code.

5. Reform federal tax code and address deficit reduction– Interest in fundamental tax reform is growing. Various legislative proposals were introduced in the 111th Congress and the President's Economic Recovery Advisory Board chaired by Paul Volcker released its recommendations in August for reforming the tax system. If tax reform proceeds, United Fresh must evaluate the potential impact of various proposals on our industry. In addition, the industry would support a fair, transparent, and comprehensive review of the federal budget targeting wasteful spending. United Fresh and its members should embrace this process and support federal programs that would enhance the competitiveness of the fresh produce industry.

6. Ensure OSHA enforcement balances safety with business viability – In late 2010, the Occupational Safety and Health Administration proposed a new stricter enforcement policy for workplace noise standards that could result in businesses having to implement additional costly and unnecessary compliance efforts even if those businesses are currently meeting OSHA noise standards for the workplace. While worker safety is critical, the proposed enforcement strategy does not appear to address any crisis in workplace noise standards, and threatens business viability at a time of record unemployment. United Fresh will work with members and allies to respond to OSHA this and other proposals in order to maintain both worker safety and the ability of members of the produce industry to stay in business.

Shaping Sound Supply Chain Legislation, Regulation

With the growing and critical importance of transportation, fuel costs, product traceability and other supply chain issues, United Fresh will continue to address policy issues affecting the distribution and marketing of fresh produce.

1. Ensure efficient, cost-effective operation of PACA, produce inspection, and all USDA AMS user fee programs – These programs serve as the foundation of government's role in maintaining a strong and commercially viable fresh produce industry in the United States. United Fresh will continue to play an active role to ensure that members of the industry have the ability to shape and oversee the effectiveness of these programs.

2. Help shape Congressional reauthorization of the Highway Transportation

Bill – Congress has enacted a short-term extension of the current transportation bill, in advance of a full five-year reauthorization that will contain issues related to truck border crossings; reducing congestion on interstate roads; truck weight and length requirements; driver safety (such as hours of continuous operation by drivers); truck inspections and permits; uniform rules; and environmental requirements such as average miles/gallon mandates. United Fresh will work to address these issues as Congress revisits a full five-year reauthorization bill.

3. Join with like-minded stakeholders in supporting increased truck weights –

In order to maintain the competitiveness of U.S. producers, suppliers and transporters, it is essential to address outdated federal regulations, and uneven state regulations relating to truck weights. This effort is embodied in legislation sponsored by Rep. Michaud of Maine. Its provisions include allowing states to authorize 6-axle, 97,000 pound tractor semi-trailers, lifting the arbitrary 80,000 lbs gross vehicle weight for five axle combination vehicles, and enhancing the ability of transporters to utilize longer combination vehicles (LCVs) where appropriate, consistent with appropriate safety considerations. This legislation may be rolled into the Highway Transportation reauthorization discussed above.

4. Resolve the U.S.-Mexico cross-border trucking impasse –

Congressional action to block safe transportation of goods across the U.S.-Mexican border, with commensurate Mexican retaliation over this NAFTA violation, is causing significant costs and disruption in cross-border trade in fresh fruits and vegetables. United Fresh will work to urge both the Administration and Congress to resolve this issue, which is unfairly punishing U.S fruit and vegetable producers.



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