

Prepared Statement

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**Before the
U.S. House of Representatives
Committee on Appropriations**

**Subcommittee on Agriculture, Rural Development,
Food and Drug Administration, and Related Agencies**

February 8, 2007

Good afternoon Madam Chair, Ranking Member Kingston, 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 1,200 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. Within our diverse industry, there are always diverse and strongly held views on each issue we face. Our association attempts to look at the best overall industry 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. They were committed before the spinach outbreak last fall, they are committed today, and they will be committed in the future.

The spinach outbreak was a tragic occurrence, and our hearts go out to those who became seriously ill or lost a loved one. We can never forget the real human impact when something goes wrong in our food safety system.

That is what drives food safety to be a process of continuous improvement, not a static achievement. We are on a continuum, constantly striving toward perfection, 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. But as long as there is the potential of even one individual getting sick, we will do all we can to prevent that from happening.

As you will see clearly in a moment, I am not here today to debate the need for a strong food safety framework for produce. But first I do want to make an important point about the safety of our products. Our industry is proud to serve Americans over 1 billion servings every day of healthy and nutritious fruits and vegetables, without incident. Day in and day out, Americans should have confidence that the risk of foodborne illness from produce is extremely rare. Of course, we are also committed to driving what are already rare occurrences as close to obsolete as possible.

But, we must also recognize the critically important public health benefit of eating more fresh fruits and vegetables. All public health authorities – HHS, FDA, CDC, USDA – urge Americans to increase their consumption of fresh fruits and vegetables as one of their most important daily steps to improve their health. The 2005 U.S. Dietary Guidelines call on Americans to literally double our consumption of fruits and vegetables.

The Chair knows this well, and we have long shared a joint goal to help children increase their consumption of fresh fruits and vegetables in schools and learn to make healthier choices for a lifetime. I am here today because I fear that if we do not ensure a strong food safety regulatory framework, we are putting that goal at risk. It is simply unacceptable for Americans to fear consuming those very fresh fruits and vegetables that are essential to their good health.

So, let me turn specifically to questions of our national food safety regulatory framework. Our industry has but one goal and it starts with the consumer. We believe consumers must be able to shop in any grocery store, or order fresh produce in any restaurant, with complete confidence that their produce selection is a safe and healthy choice. Whatever low risk that might be present must be viewed as an acceptable risk, based on strong government assurance that proper food safety systems are in place, and that the benefits of consumption far outweigh the low risk.

Now, I personally am confident in my produce choices today. I know many of people who are growing and processing fresh produce, and I trust them to be doing their very best to market safe products. 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 salad are sold every day.
- And, out of the hundreds of fruit and vegetables offered in a typical supermarket, only 6 have been implicated in illness outbreaks in recent years.

But, while my position allows me to have that confidence, we also know that consumers today are walking into grocery stores and restaurants with new concerns, new 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 most important, they do not have complete confidence that government is doing all it should to protect their health.

A new study reported just this week from Rutgers University indicates consumer confidence in fresh produce continued to be affected long past last fall's spinach outbreak, when the most appropriate public health choice would have been to consume *more* spinach to make up for what they missed!

This kind of fear which actually harms the public's health should be as unacceptable to government public health leaders as it is to us. No matter how hard our industry works to ensure food safety, public confidence ultimately depends upon government as the final authority to set proper food safety standards and ensure that they are being met.

It is important to note that we believe FDA already has the regulatory authority by statute to achieve these goals. FDA has the authority to promulgate rules and regulations, issue guidance that compels industry action, enter into agreements with states to allow for field investigations, and generally set standards to protect the public health. While we will be open to listen should FDA specifically request new legislative authority from the Congress, we do not at this time see that need.

Within this context, our organization endorses four key principles for our nation's food safety regulatory framework.

1. Harmonized Produce Food Safety Standards

First, 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, New Jersey or Mexico.

We strongly applaud industry groups in different states and regions that are working to enhance local practices. Their work demonstrates the industry's commitment to do all we can to enhance safe growing and handling practices. But to build consumer trust, any individual produce commodity grown anywhere in the United States or imported into the United States must be held to the same standards.

2. Federal Oversight

Second, we believe produce safety standards must be mandatory, with sufficient federal oversight in order to be credible to consumers. Strong and clear federal oversight is essential to building and maintaining public confidence in all of our products. Could the industry, through our own measures, assure the same level of actual safety as government – probably so. We don't ask for federal oversight because we don't know what to do, nor to rein in bad actors who won't comply. Today, the vast majority of growers, packers and processors are doing everything they can to produce safe products, and education is as important in achieving 100% compliance as are mandates.

But in a situation where science tells us there can be no zero risk, and there is no cooking step for our product, it is the unfortunate reality that a future accident will occur. Someone will get sick. That's when the public must trust in government to have set the most appropriate safety standards and worked to see that they are enforced. In the future, we must be able to stand side-by-side with government to reassure the public that together, we have done everything necessary to implement and comply with strong mandatory government standards to protect public health.

Never again do we want to face a situation such as that surrounding the spinach outbreak last fall, when an entire industry was shut down; consumers were scared for months, if not years, about the safety of spinach; and yet the actual contaminated product came only from one day's raw product bagged in one processing plant. Preventing even one incident of contamination such as this remains our highest priority, but we must also focus on the lack of trust in a food safety regulatory system when public confidence in spinach is shattered by that one incident, and fears are raised about many other fresh produce items. Government must be able to reassure consumers in a time of crisis, not throw up its hands with a "buyer

beware" message. If that demands greater resources and a more intense focus on produce to enable FDA to do its job, it is a small price for the public to pay.

3. Assured Compliance

Third, we believe that ultimate compliance with produce safety standards must be overseen by the appropriate government regulatory agency, in our case FDA, and not depend solely on marketing programs or compliance with voluntary certification programs. Consumers simply must have confidence in all fresh produce available in the store, not be looking for specific labels or seals to discern which item is safe and which is not. While many product attributes are appropriate for competitive marketing, food safety is not one of them.

And that holds true for produce from different states. Food safety is not something that should be legislated or regulated differently by the different states. We appreciate the good motives of some state legislators and regulatory officials to look at growing and handling practices within their states, but American consumers demand that food safety be uniform across the country. Again, states have a lot to promote in marketing their home-grown quality and support for local farmers. But, food safety standards should not depend on a state by state patchwork.

Let me say a word here specifically about USDA's role in helping our industry enhance safety. USDA is a strong ally and offers a number of means to assist the produce industry in safely growing, handling and processing fresh produce. First, as a diverse agricultural industry, marketing orders have been an extremely useful means of setting quality standards, conducting research and promoting specific commodity groups. These orders fall under the Agricultural Marketing Service of USDA, and are increasingly being looked at as a potential means to stimulate good food safety practices as well. Growers of a commodity can come together and vote to require specific practices that then become mandatory for all growers of that commodity.

In addition, USDA through AMS offers several auditing programs that assist the industry in measuring good agricultural practices, good handling practices, and HACCP programs in processing plants. These are good education and training programs, as well as a means to measure individual operators' understanding and implementation of food safety practices.

We believe these programs can be very helpful, and are an important element in enhancing food safety systems. Yet, while these programs are an important means for specific sectors of the industry to enhance performance, long-term public trust requires that FDA set the appropriate safety standards in an open and transparent process, with full input from industry, academia, consumers and all stakeholders.

And, FDA must have the ultimate responsibility to ensure that industry is complying with these standards. That does not mean that FDA has to hire 5,000 new inspectors to visit every farm in America and travel around the world. But it does mean that FDA must have relationships with other governments, USDA and state agriculture and regulatory officials to ensure that compliance is taking place. Cooperative agreements between FDA and the states have been extremely effective in providing oversight of food safety standards for milk, shellfish and in retail and foodservice establishments.

4. Commodity-Specific and Scientific Approach:

Finally, 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 trees. And, some products grown underground such as potatoes have never been linked to a foodborne disease in the produce industry as they're not ready-to-eat foods that are consumed raw. Every produce commodity is different, and a federal regulatory approach must contain needed scientific flexibility to address specific commodities differently based on their unique production and handling practices.

This will be an extremely important point moving forward. The FDA has to 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.

Together, the four principles I have outlined above 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.

We support the approach currently taken by FDA to establish broad Good Agricultural Practices (GAPs) for farm level. FDA's GAPs guidance provides an effective roadmap for producers, and cooperative agreements with states could assure compliance with these guidelines based on today's science and as they are modified by FDA in the future to reflect increasing knowledge.

We also support FDA's scientific approach to develop commodity-specific GAPs where there is a demonstrated need. FDA has the regulatory authority to focus its resources where it believes there is the greatest need. This must be a scientific process, looking at outbreak history and potential risk factors to ensure that resources are not diluted trying to address hundreds of commodities that have never been linked to illnesses. These principles are embodied in commodity specific guidance documents that are being developed for tomatoes, melons, leafy greens and green onions, as well as FDA's already published guidance document for fresh sprouts.

Finally, we support FDA's approach to address specific standards for fresh-cut processing, as contained in the agency's proposed *Guide to Minimize Microbial Food Safety Hazards of Fresh-cut Fruits and Vegetables*. While we have made specific recommendations to FDA on various aspects of this draft guidance, the approach taken to provide overall standards for fresh-cut produce is one that we support.

Before I conclude my testimony, let me touch on just a couple of other matters of importance to the committee.

Of course, assuring produce safety is but one piece of the overall U.S. food safety framework, and we anticipate much discussion in this and other forums of whether a single food safety agency might better serve the public today. While I wish we could stand firmly on one side or the other of that question, our produce industry's vantage point just seems too narrow for an informed opinion.

In our case, FDA has clear food safety regulatory authority over our industry. We believe the most important issue for produce is whether FDA is adequately funded, has sufficient staff with scientific training and experience in our sector of the food industry, has research dollars available to address key questions, has strong working agreements with the states to provide support as needed, and has the commitment of the President and full support of Congress.

These factors would still be relevant if Congress moved various agencies together on an organizational chart. We do not conceptually oppose a move to a single food safety agency should that prove to be in Congress's wisdom, but we also do not believe it is required to have a strong and effective federal regulatory framework for the produce industry. For fresh produce, the most important task at hand is to adequately fund, staff and support the FDA in carrying out its mission. That is something that must be achieved whether in the existing regulatory structure or a new single agency.

Last, let me call your attention to H.R. 6379, the Spinach Research and Recovery Act introduced by Congressman Farr in the last Congress. We would like to thank Mr. Farr for his leadership along with many co-sponsors in seeking to drive increased federal funding for produce safety research. This bipartisan effort began late in the last Congress, and we hope to see that continue anew in this subcommittee and elsewhere.

In recent years, federal funding for food safety research has been woefully inadequate, with little to no research focused directly on mitigating risk factors associated with potential field contamination of fresh produce, or to developing effective microbial reduction and elimination techniques after harvest and in processing. While there's no obvious silver bullet around the corner, developing a "kill step" akin to pasteurization while still protecting the natural texture and flavor of our product would be a critical advancement in preventing even rare future illness outbreaks.

We commend and thank Congressman Farr for his proposed legislation to appropriate \$10 million for USDA's Agricultural Research Service, \$10 million for the USDA Cooperative State Research, Education and Extension Service, and \$6.5 million for the FDA Center for Food Safety and Applied Nutrition, for produce safety research. We ask the subcommittee's support for these funding levels in this year's appropriations, as well as significantly greater support in the 2007 Farm Bill.

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 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, we 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 because they 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.