

SAFE FOOD COALITION

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May 8, 2007

The Honorable Collin Peterson
Chairman
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Dear Chairman Peterson,

The undersigned members of the Safe Food Coalition respectfully request that this letter be placed in the hearing record for the Committee's hearing on imported foods and food safety scheduled for May 9, 2007. Founded in 1986, the Safe Food Coalition is composed of consumer research and advocacy organizations, groups representing victims of foodborne illness, and trade unions who share the goal of reducing the burden of foodborne illness in the United States. For 20 years the Safe Food Coalition has built a reputation for analysis and advocacy on issues related to food safety and foodborne illness. We participate actively in both USDA and FDA forums and representatives of our member groups serve on the National Advisory Committee on Microbiological Criteria for Food, the National Advisory Committee on Meat and Poultry Inspection and the FDA Food Advisory Committee.

Our members have been particularly active with regard to the recent food safety emergencies, which we understand to be the main focus of your hearing. We appreciate this opportunity to address this issue and share our views with the Committee.

Safe Food Coalition members vigorously oppose any efforts to move any public health functions from the Department of Health and Human Services (DHSS), which is the primary location for public health functions in the executive branch, to the U.S. Department of Agriculture (USDA), which is the primary location for promoting production and consumption of agricultural commodities. Although USDA's Food Safety and Inspection Service is designated as a public health agency, the USDA suffers from an inherent conflict of interest in executing public health programs. Congress created the Department for the purpose of promoting the production and sale of agricultural commodities. Congress also placed responsibility for assuring the safety of meat and poultry products within USDA. Frequently those two interests conflict, and when they have, food safety has often not been the Department's primary concern.

For many years USDA treated meat, poultry and egg inspection as a subset of animal health. Since foodborne pathogens generally do not make animals sick, the Department paid little concern to addressing foodborne illnesses. Both animal health and food safety functions of USDA have been, for most of their history, administered as part of the Department's marketing functions, with an orientation toward industry concerns rather than public health. Ten years ago Congress created a separate Under Secretary for Food Safety. However, that agency is isolated in an institution that is more concerned with agricultural production than public protection. No Secretary of Agriculture has ever been chosen because he or she had primary expertise in public health.

Even if it has the institutional will, the record shows that FSIS does not have the ability to administer an effective public health program. The agency does have experience with maintaining a food inspection program and its inspectors are dedicated to protecting the safety of our meat and poultry supply. However, the current meat and poultry inspection laws are neither science-based nor risk-based. The courts have ruled that the Agency has no capacity to close down permanently plants that regularly fail to meet microbiological performance standards. In addition, the USDA declined to challenge a court ruling that USDA could not close permanently plants that regularly failed to meet their own HACCP and sanitation plans. The National Academy of Sciences has recommended that Congress give USDA power to develop and enforce performance standards including limits on microbiological contamination.

Despite industry efforts to improve, these weaknesses in the USDA program keep the health risk from meat, poultry and egg products far higher than it should be. While produce is a very serious food safety problem, data from the Center for Science in the Public Interest shows that meat and poultry products as a class are responsible for more foodborne illness outbreaks than produce as a class¹. Testing by Consumers Union, the publisher of Consumer Reports, found in January that 83 percent of the broiler chickens they tested in a nationwide sample harbored *Campylobacter* or *Salmonella*, two dangerous foodborne pathogens². This was a considerable increase from 2003 when only 49 percent tested positive for one or both pathogens.

Finally, the Centers for Disease Control and Prevention, in this year's FoodNet report on the nationwide incidence of foodborne illness, revealed that after declines in 2003 and 2004, incidence of *E. coli* O157:H7 infections has increased markedly over the past two years³. The CDC noted in its report that this increase coincided with an end to the decline in frequency of positive *E. coli* O157:H7 samples in ground beef over the same time period.

¹ Center for Science in the Public Interest, "Outbreak Alert: Closing the Gaps in our Federal Food Safety Net," December 2006 at http://www.cspinet.org/foodsafety/outbreak_alert.pdf.

² Consumer Reports, "Dirty Birds," January 2007, at http://www.consumerreports.org/cro/food/chicken-safety-1-07/overview/0107_chick_ov.htm.

³ Centers for Disease Control and Prevention. *Preliminary FoodNet Data on the Incidence of Infection with Pathogens Transmitted Commonly Through Food – 10 States, United States, 2006*. April 13, 2007, MMWR, 56(14), 336-339.

Neither the USDA nor the FDA is being sufficiently funded to protect the public. While the USDA has far greater resources to expend on protecting food safety than does the FDA, these resources have not been used effectively because of weaknesses in the law and institutional support. Nothing in the record suggests that USDA would do a better job of implementing programs now administered by the FDA. Functions of the FDA were originally administered by USDA and were removed in the 1930s because the Department frequently overturned the counsel of the food safety staff in favor of industry interests.

There are steps that Congress could take to improve food safety.

1. As recommended by the 1998 National Academy of Science Report, which Congress directed to be conducted, revise and modernize our food safety laws.
2. As recommended by a multitude of government reports, create an independent food safety agency that would consolidate the food safety activities now located in 15 different agencies administering 30 different laws. This agency would have the sole charge of protecting public health.
3. Follow the recommendations of the National Academy of Sciences (2003) and provide USDA specific authority to develop and enforce microbiological criteria including microbiological performance standards.
4. Provide adequate financial and staff resources to the food safety functions of the FDA. The Department of HHS is the nation's primary public health agency. It has the proper orientation to make food safety programs work. However, the FDA and especially its food safety functions have been starved for resources. For a decade the agency has had to reduce staff positions because Congress has not increased its budget even to cover required cost of living increases for staff. The total budget for FY2008 gives FDA \$2 billion but would only increase food safety by \$10.6 million. No agency can protect the public if it is systematically starved for resources.
5. Pass legislation that would give both FDA and USDA clear recall authority for contaminated food products and require both agencies to disclose to consumers the retail establishments involved in food recalls.
6. Provide both agencies the ability to assess civil and criminal penalties for companies that routinely violate food safety laws.

We support efforts to bolster the staff and resources of the FDA so that it can perform the food safety functions Congress has mandated. The recent attention surrounding the FDA's ability to protect the food supply is a result of a lack of resources, not a lack of will or expertise. The FDA has an institutional focus on public health and is located in a Department dedicated to public health. Congress should either create a separate food safety agency capable of focusing all national resources for protecting the public from foodborne pathogens and others dangers or Congress should provide sufficient structure

and resources to all of the federal agencies to carry out the food safety work that Congress has charged them to do.

Sincerely,

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