

Prepared Statement

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Committee on Appropriations**

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

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Good morning Chairwoman DeLauro, Ranking Member Kingston, and Members of the Subcommittee. 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 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.

Thank you for holding this hearing to bring attention to the challenges and progress needed in the area of food traceability as one of the cornerstones of our nation's overall food safety system. As I've testified before your committee in the past, the fresh produce industry is committed to providing consumers with safe and wholesome foods, and we are committed to being part of the solution to the food safety and traceability challenges we all face together. Madam Chairwoman, you know personally of our call more than two years ago for a strong system of mandatory federal oversight of food safety standards for fresh produce. We have worked hard toward that end with this committee, other committees in the House and Senate, and with leaders of the Department of Health and Human Services and the Department of Agriculture.

As today's hearing is focused broadly on food traceability, let me discuss three issues with specific regard to the fresh produce industry.

1. The general state of traceability in the produce industry today, and compliance under the Bioterrorism Act;
2. Major initiatives now well underway within our industry to build streamlined, whole-chain traceability for produce; and finally,
3. Some brief thoughts on what may be most appropriate for Congress and FDA moving forward.

Let me begin with this – just as our industry is committed to providing consumers the safest possible foods, we are also committed to ensuring our ability to track fresh produce from the retail store or restaurant back to the farm.

Traceability of fresh produce is a complex and expensive undertaking, linking multiple partners in a sometimes long supply chain. Each company is responsible for maintaining information required to comply with the Bioterrorism Act, mandating 'one-step-up' and 'one-step-back' tracking of all foods. Their efforts collectively serve to link the produce supply chain from one point to another. Just to give you a sense of the enormity of this effort, we estimate that 6 billion cartons of fresh produce a year are shipped in the United States.

I think it's best to look at produce traceability in three groups – individually packaged produce most often carrying UPC codes; bulk produce in its original carton; and bulk produce that is repacked and may be commingled with other lots for product quality.

With prepackaged produce such as bagged salads, a bag of apples, or mixed vegetables, UPC codes serve as the product identifier, linking back to specific lot codes identifying the product's source. We are unaware of any instances in which public health investigators, having a package in hand, have been unable to quickly and efficiently reach the company that packaged the product and obtain information about the product's component ingredients.

Bulk produce poses a different challenge, in that produce is often removed from the original carton for final display and consumer sale. For these products, record-keeping by the retail establishment, or foodservice company that has dropped product at specific restaurants, is required to begin linking an individual produce commodity back down the chain.

Finally, bulk produce is sometimes repacked between the farm and final consumer destination to maintain quality standards. Because some produce commodities are likely to be of different sizes, colors, shapes and stages of ripeness, repackers play an important role in sorting the highest quality produce by size, color, shape, etc. close to the final consumer destination. Most frequently today, individual lot integrity is maintained during this sorting process. But even when different lots of produce are mixed, repackers are still expected to label the outgoing cases with lot code information that is internally traceable to the different produce lots used in that case. For example, in the tomato industry's *Commodity Specific Food Safety Guidelines for the Fresh Tomato Supply Chain*, recommendations specify that "if incoming lots are mixed/commingled, then documentation shall be maintained to identify all included sources."

The industry is fully committed to the one-up, one-down requirements of the Bioterrorism Act, and has repeatedly urged FDA to rigorously enforce this law if they find companies out of compliance. However, we know of no instances where FDA has taken any regulatory action to cite a produce company or its customers for failure to provide adequate records as required by the Act.

I am particularly interested in reading the Inspector General's report today, in hope that this work does identify any needed areas of improvement. Just last summer, investigators from the Energy and Commerce Oversight and Investigation Subcommittee conducted several real-world tracebacks selecting tomatoes from a restaurant at random. They actually picked the restaurant out of the phone book so as not to be "set up" by industry in doing this test. They were amazed at the results – they were able to get back to the original farm source within a matter of hours.

But, honestly, we do know that there is diversity in traceability sophistication among produce facilities, just like in other sectors across the food industry. The IG's research provides precisely the type of analysis we need – conducted before an outbreak investigation – that can help us focus on the areas where individual operators can improve in their own traceability systems.

Next, let me talk about initiatives under way in the produce industry to take traceability another huge step forward.

More than a year ago, our association joined with industry partners at the Produce Marketing Association and Canadian Produce Marketing Association to launch an initiative to build a common framework and standardized coding for carton labeling of all produce sold in the United States. Our mandate was to develop an industrywide system and action plan to drive streamlined connectivity across the supply chain. While today most companies have the ability to track one-up, one-down in their own systems, the adoption of standardized coding across our industry will connect each stage more quickly and efficiently, not only for food safety tracking but for business process management.

Whole-chain connectivity is based on two pieces of information that will be labeled on every case of produce: (1) a Global Trade Item Number (GTIN), which will identify who the originator of the case is and the type of product that is inside, and (2) a lot number specifically identifying the produce, including its packing or harvest date. This information will be labeled on each case so that the numbers may be read and understood universally throughout the supply chain. Labels will also carry a barcode, which each member of the supply chain will be able to scan so that the information can be stored.

Adoption of these standards is now in motion, and complete details on this initiative can be found on our website www.producetraceability.org. As an example of our efforts to drive widespread industry adoption, our association will feature a 10,000 sq.ft. Produce Traceability Demonstration Center at our upcoming annual convention next month, complete with more than a dozen vendors offering technology solutions and teams of experts to help companies learn how to adopt these standards in their own operations.

One last item I would mention in the new technology area is the increasing use of what's called the GS1 databar, an electronically readable code reduced for size to even fit on a fruit or vegetable sticker. If you've ever wondered why all those stickers are on produce, they carry a four-digit code number that cash register clerks type in to ensure that the register rings up the correct price. While most retail check-out systems cannot yet scan these new databar symbols, the adoption of this new technology is growing, and will thus lead to even greater item-level traceability. For much of our individually stickered produce, we will be able to scan this little code and tell you the farm and specific lot this produce came from.



Actual Size

That leads me to my final point – what should Congress and the FDA be doing to help advance traceability?

First, as you weigh various traceability provisions of all the food safety bills under consideration by Congress, I ask you to look at the unique aspects of tracking bulk fresh produce. We are likely to find that overly prescriptive mandates from the top down are not as likely to be as effective as bottom up efficiencies and systems designed for unique challenges. That's what we believe we have achieved in the Produce Traceability Initiative.

I would ask the Committee to support our efforts in this regard, rather than create a different model. Allow industry innovation similar to what I've shared here to flourish. We suggest that Congress should set the goal, not mandate the process.

Second, I ask the committee to consider some way of supporting the cost of traceability requirements in a similar vein to the cost of food safety requirements. It is essential that cost burdens do not prevent companies from adopting either food safety or traceability protocols. Perhaps funds to support implementation of traceability systems will be just as important in meeting our goals as the mandates of legislation.

Third, let me suggest that the FDA engage in more practical, hands-on traceability exercises with industry, just as the Inspector General has done. We don't want to learn of any weaknesses in an outbreak; we need to learn now, and correct any weaknesses ahead of a crisis. Our industry stands ready to cooperate with this Committee, the FDA, the IG and any others in mock traceback exercises at anytime.

Fourth, I recommend that we urge FDA to enforce the current law before we all call it a failure. If in an outbreak situation FDA finds companies not in compliance, then take action. Take highly visible action. That's what signals the importance of proper behavior to those in any industry who might be inclined to cut corners. And, if FDA needs additional authority to ensure that companies are in compliance before an outbreak, that should be part of the solution.

Finally, I need to close with some comments about traceback investigations in general. Madam Chair, I apologize in advance that I am now sharing my frustrations with you. None of the enhancements to traceability that we've talked about today would have prevented the weeks and weeks of anxiety consumers and industry alike experienced last summer during the Salmonella outbreak.

This past summer saw what can only be called a wild goose chase – or perhaps a “wild tomato chase” – go on for weeks and weeks, while officials blamed their slow search on a lack of traceability. We all know now they were simply searching for the wrong product.

In reality, traceback of tomatoes was working effectively last summer, as FDA in fact was able to trace tomatoes eaten by sick consumers back to the farm. The only problem was those tracebacks kept pointing to different farms. The evidence of multiple tracebacks showed there was no common point where all of these tomatoes could have been contaminated, whether at the farm or in repacking at the wholesale level. Traceback worked; it just didn't confirm the original false hypothesis.

One of the more interesting developments in this outbreak investigation was the report from Minnesota health officials that once they identified jalapenos as the real culprit, not tomatoes, they were quickly able to trace the peppers back from a small restaurant in Minneapolis, to the distributor, a tiny wholesaler in Texas, and a farm 500 miles south of the Mexican border. The Minnesota investigator is quoted as saying, it takes “a few phone calls and you can work it fairly quickly back to the grower.”

I assure you we are far from perfect in our ability to track product, but that description more closely resembles the industry I know today. We *are* capable of tracking most produce one-step up and one-step back today.

And we are committed to streamlining and expediting that process just as fast as we can.