



May 8, 2007

The Honorable Collin Peterson
United States House of Representatives
Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

RE: Submission of written testimony on the safety of imported foods and ingredients

Dear Chairman Peterson:

The Center for Science in the Public Interest (CSPI) offers this written testimony for the House Committee on Agriculture's May 9, 2007 hearing to review the impact of imported contaminated food and feed ingredients and of recent food safety emergencies on food safety and animal health systems. CSPI is a nonprofit health advocacy and education organization focused on food safety, nutrition, and alcohol issues. CSPI is supported principally by the 900,000 subscribers to our *Nutrition Action HealthLetter* and by foundation grants. CSPI accepts no government or industry funding.

Mr. Chairman, we particularly want to emphasize our opposition to moving all food-safety functions from the Food and Drug Administration (FDA) to the U.S. Department of Agriculture (USDA), a move that would simply place a public health program in an agricultural promotion agency and would further reduce consumer confidence in the safety of the U.S. food supply. While USDA is strong in promoting U.S. agricultural interests abroad, e.g., bargaining to resume beef exports to Japan after the mad cow scare, the agency is not appropriate to manage one of the most critical public health infrastructures in the U.S.

It does not make sense to greatly increase responsibilities at USDA when the agency has such a poor record of performance in recent years. The Food Safety and Inspection Service (FSIS) at USDA manages a meat inspection program established over 100 years ago with twice the resources of FDA's food program. Even with its huge budget, the products FSIS regulates cause many outbreaks and illnesses each year. In fact, while USDA regulates only 20 percent

of the food supply, these products caused 27 percent of outbreaks tracked by CSPI using CDC data. While improvements made in the 1990s showed initial declines in pathogen levels, those declines were not sustained. In fact, *Salmonella* rates in poultry increased from 9 percent to 16 percent between 2000 and 2005. Human illnesses linked to *E. coli* 0157:H7 also increased between 2003 and 2006 according to CDC data, following several years of decline.

Consumers cannot trust the USDA to take on the huge responsibility of managing the entire food safety system, when that agency lacks a public health mission and a consistent record of improvement for the meat and poultry products it currently regulates.

Very truly yours,

A handwritten signature in cursive script that reads "Caroline Smith DeWaal".

Caroline Smith DeWaal
Director of Food Safety



**Addressing Modern Hazards in the Food Supply,
From Pet Food to Produce**

**Written Testimony of the
Center for Science in the Public Interest¹
before the United States House of Representatives
Committee on Agriculture
Washington, DC
May 9, 2007**

The Centers for Disease Control and Prevention (CDC) estimates that 76 million Americans get sick, 325,000 are hospitalized, and 5,000 die from foodborne hazards each year in the United States. Since September 2006, Americans have suffered three significant nationwide outbreaks and food recalls that amply demonstrate holes in our web of protection from contaminated food: spinach with the deadly strain of *E. coli*; peanut butter with *Salmonella*; pet food with toxic chemicals – each of these tragedies has highlighted a different problem with our system of regulating the food supply. It is time for Congress to take action to better ensure the safety of our food supply and to protect Americans from these preventable illnesses and deaths.

Each year the average American eats about 260 pounds of imported foods, about 13 percent of our diet, which are regulated by the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA).² But while USDA has an intensive, legislatively-mandated program for ensuring the safety of imported meat and poultry products, the FDA program is anything but comprehensive. FDA inspects only 1 percent of imports at the border and has no checks in the country of origin, so perhaps it is surprising that catastrophes such as that resulting from the recent pet food contamination don't happen more often. Solutions aren't easy to implement for FDA, as it can not rely on other countries to ensure the safety of imports. In many parts of the world, under-funded food safety agencies do not have the ability to regulate

¹ CSPI represents 900,000 consumers in both the United States and Canada. We are supported by our members, and accept no grants from either government or industry sources.

² Bridges, A. "Imported food rarely inspected." *Washington Post*. April 16, 2007.

food entering the global market.³ The same holds true in the U.S., where the laws governing food safety were enacted in 1906.

The Failure of Import Inspections in the Pet Food Scandal

For the thousands of people whose cherished pets became ill or died during the recent recall of contaminated pet food, FDA's lapse in protecting our food supply was a tragedy. In March 2007, pet food manufacturers recalled more than 100 brands of cat and dog food after receiving complaints about pets that developed kidney failure from eating tainted food. The recalls of pet food continue to grow as the pet food tragedy touches more and more pet owners throughout the country.

FDA investigations revealed that the food that sickened so many pets was contaminated with melamine and cyanuric acid, two industrial chemicals. These toxins were found in wheat products imported from China, which are used as ingredients in many foods manufactured in the U.S. Chinese producers are thought to have intentionally contaminated their product with melamine to simulate increased protein content. According to an investigation by the *New York Times*, cutting grain products with melamine is apparently common practice among producers in China, yet the contaminated wheat gluten passed across our borders without being inspected or stopped by the FDA.⁴

These toxins were also found in hog feed and chicken feed. After melamine was found in the urine of hogs that ate this feed, the hogs were quarantined. However, some hogs may have already entered the human food supply. Thousands of chickens fed contaminated feed definitely entered the food supply. The breadth of the unfolding pet food scandal, which seems to expand daily, is a troubling signal of FDA's innate weaknesses.

While the pet food scandal affects thousands of pets across the country, we must not forget our nation's history of outbreaks from imports, particularly from imported produce. Americans seek a variety of fresh fruits and vegetables year-round, and supplying this demand requires imports from around the world. In fact, one-quarter of our fruit, both fresh and frozen, is imported. It is particularly troubling that these imported fruits and vegetables have caused numerous previous large and sometimes deadly outbreaks:

³ World Health Organization. *Healthy Food Markets*. (2006)

⁴ Barboza D and Barrionuevo A. "Filler in Animal Feed Is Open Secret in China." *NY Times*. April 30, 2007.

- In 1996 and 1997, thousands of people became ill in both the U.S. and Canada from a parasite, *Cyclospora*, on raspberries grown in Guatemala.⁵ Illness associated with *Cyclospora* includes watery diarrhea and persistent fatigue, which can continue for a month or longer if untreated.⁶ *Cyclospora* is chlorine-resistant and can be transmitted through water or from infected handlers.
- In 1997, over 256 cases of Hepatitis A were associated with the consumption of frozen strawberries. The strawberries were harvested in Mexico and processed and frozen in southern California before they were distributed by the USDA to school lunch programs in several states, including Michigan, Wisconsin, Louisiana, Maine, and Arizona.⁷
- Three multistate outbreaks of *Salmonella* serotype Poona infections associated with eating cantaloupe imported from Mexico occurred in the springs of 2000, 2001, and 2002. FDA conducted traceback investigations and determined that the cantaloupes were from farms in Mexico. FDA found many possible sources of contamination, including sewage-contaminated irrigation water; processing (cleaning and cooling) with *Salmonella*-contaminated water; poor hygienic practices of handlers; pests in packing facilities; and inadequate cleaning and sanitizing of equipment that came in contact with the cantaloupe.⁸
- In fall 2003, a major Hepatitis A outbreak linked to raw green onions used in restaurant salsa sickened 555 people in Pennsylvania, killing three. Preliminary traceback by FDA indicated that green onions supplied to the restaurant were grown in Mexico under conditions where contamination with human waste was likely. Green onions from this area were also linked to outbreaks in Georgia, Tennessee, and North Carolina that occurred earlier that fall.⁹

⁵ J Hoffman *et al* (1996). "Update: Outbreaks of *Cyclospora cayetanensis* Infection – United States and Canada, 1996." July 19, 1996. *MMWR* 45(28): 611-612.

⁶ CDC Division of Parasitic Diseases (2004). *Fact Sheet: Cyclospora Infection—Information for Healthcare Providers*. April 19, 2004. March 5, 2007.
<http://www.cdc.gov/ncidod/dpd/parasites/cyclospora/healthcare_cyclospora.htm>.

⁷ Centers for Disease Control (1997). "Hepatitis A Associated with Consumption of Frozen Strawberries—Michigan, March 1997." *MMWR*. 46(13): 288-295.

⁸ SM Anderson *et al.* (2002) "Multistate Outbreaks of *Salmonella* serotype Poona Infections Association with Eating Cantaloupe from Mexico—United States and Canada, 2000-2002." November 22, 2002. *MMWR*, 51(46); 1044-1047.

⁹ V Dato *et al.* (2003) "Hepatitis A Outbreak Associated with Green Onions at a Restaurant—Monaca, Pennsylvania, 2003." *MMWR*, 52(47): 1155-1157.

Consumer Confidence

Consumer confidence in the safety of the food supply, and in FDA's ability to protect consumers, has declined steadily in recent years. According to the Coalition for a Stronger FDA (a broad coalition of industry and consumer groups), a Harris Poll showed that consumer confidence in FDA plummeted by 25 percentage points in the last six years, with most of that decline occurring between 2004 and 2006. Those who thought FDA was doing an "excellent" or "good" job dropped from 61 percent in 2000 to 36 percent in 2006, while nearly 60 percent of respondents ranked FDA as doing only a "poor" or "fair" job.

Even government officials lack confidence in our nation's food safety system. Secretary Tommy Thompson from the Department for Health and Human Services told Congress, "Am I satisfied with the [food] inspections we're doing? No, I am more fearful about this than anything else."¹⁰

The American public wants safe food. A 2006 poll from the National Center for Food Protection and Defense at the University of Minnesota revealed that U.S. residents believe that for every \$1 spent to protect against a terrorist attack from an aircraft, \$1.13 should be spent to protect America's food supply.¹¹ Unfortunately, these sentiments have not translated into a budget reality.

FDA's Budget Problems

Last fall's produce outbreaks were just the latest symptom of an agency that is overwhelmed by responsibility, but lacks the staff and resources to function effectively. The agency *responds* to crises rather than *preventing* them. Current FDA funding shortfalls have reached a critical level and budget cuts have left the agency with fewer inspectors, even as their workload continues to increase. In fact, since 1972 inspections conducted by the FDA declined 81 percent. Since 2003, the number of FDA field staff dropped by 12 percent and between 2003 and 2006, there was a 47 percent drop in federal inspections.¹²

¹⁰ Barnes, Julian E. and Keith Bradsher. "A Nation Challenged: Agricultural Inspections; Concerns That U.S. Food Supply is Vulnerable to Terrorist Attacks." *New York Times*. (October 24, 2001).

¹¹ Stinton TF, et al. "How Should America's Anti-Terrorism Budget Be Allocated? Findings from a National Survey of Attitudes of U.S. Residents about Terrorism." The Food Industry Center, University of Minnesota. March 2006.

¹² Waxman, Henry. *Fact Sheet: Weaknesses in FDA's Food Safety System*. Representative Henry Waxman. (October 30, 2006); Andrew Bridges, Seth Borenstein, "AP Investigation: Food Safety Inspections Lanquish," Associated Press, February 29, 2007.

FDA's food program has a current funding shortfall of \$135 million, which an FDA budget official described as equivalent to a 24 percent budget cut. That means that many other parts of the agency's responsibilities are just not getting attention – things like obesity, dietary supplements, and oversight of new food technologies. In addition, funding shortfalls do not allow the FDA to develop more modern testing technologies and leave the U.S. at a competitive disadvantage compared to other developed countries.

The Bush Administration's 2008 budget proposal brings no relief to the ailing agency. The recent budget proposal would give USDA \$104 million in new money for food safety.¹³ The FDA, which regulates 80 percent of the food supply, including produce, would only get \$10.6 million in new food safety money.¹⁴ It is a food safety budget that defies logic.

Equally important is the fact that the federal agencies' food safety expenditures are disproportionate to the risk posed by the foods they regulate. The USDA-regulated portion of the food supply causes half as many outbreaks as are caused by the FDA-regulated portion, yet its food safety appropriations are double that of the FDA.¹⁵ Thus, while USDA has the resources (including 10 times the number of inspectors) to inspect meat and poultry plants daily, the FDA inspects food facilities on average just once every five to ten years.

While some have proposed moving all the food safety functions from FDA to USDA, it does not make sense to greatly increase responsibilities at USDA when the agency has such a poor record of performance in recent years. Even with its huge budget, the products USDA regulates still cause many outbreaks and illnesses each year. In fact, while USDA regulates only 20% of the food supply, these products caused 27% of outbreaks tracked by CSPI using CDC data. While improvements made in the 1990s showed initial declines in pathogen levels, those declines were not sustained. In fact, *Salmonella* rates in poultry increased from 9 percent to 16 percent between 2000 and 2005. According to CDC data, human illnesses linked to *E. coli* 0157:H7, which are often linked to ground beef, also increased between 2003 and 2006 following several years of decline.

¹³ United States Department of Agriculture. *FY08 Budget Summary and Annual Performance Plan*. <<http://www.obpa.usda.gov/budsum/fy08budsum.pdf>>

¹⁴ Food and Drug Administration. *Summary of FDA's FY 2008 Budget*. <<http://www.fda.gov/oc/oms/ofm/budget/2008/summary.html>>

¹⁵ Center for Science in the Public Interest, *Outbreak Alert!* (Revised and updated – 2006).

Modernizing the Law: The Safe Food Act

Following September 11, 2001, Congress enacted the Bioterrorism Act of 2002 but left the most frequent traveler across U.S. borders — imported food — under the supervision of a fragmented system of food regulation. According to the National Academy of Sciences, “[a]t least a dozen federal agencies implementing more than 35 statutes make up the federal part of the food safety system.”¹⁶

In response to the problems identified by the National Academy of Sciences, Government Accountability Office, and other agencies, several Members of Congress have introduced legislation—the Safe Food Act—that would modernize the outdated inspection system and give clear authority for on-farm programs. The new system would rely on preventative control systems implemented by the industry and performance standards monitored and enforced by the government.

In a post-September 11 world, with risks of bioterrorism and natural hazards such as *E. coli* O157:H7, the U.S. food safety system has become an issue of national security. The existing regulatory framework is simply insufficient to handle these challenges. The Safe Food Act was introduced February 15, 2007 by Senator Richard Durbin (D-IL) and Representative Rosa DeLauro (D-CT) as a solution to the myriad of problems in the food system. The Act would streamline food safety at the federal level by consolidating food programs at the FDA, USDA, EPA, and several other key food agencies into a new, independent, unified, science-based Food Safety Administration. In addition, the Safe Food Act would create new authorities to address the development of preventative processing controls, sanitation standards, performance standards for contaminants, adequate recordkeeping to monitor compliance, and a sampling program to ensure that the process controls are effective.¹⁷

The key to creating a modern food safety system is to implement science-based programs to prevent contamination. The Safe Food Act calls for the implementation of science-based process controls to ensure that food contamination is minimized throughout the production process. The bill would require all food establishments to implement appropriate measures to control and reduce the levels of harmful contaminants in food and meet performance standards

¹⁶ Institute of Medicine, National Research Council. *Ensuring Safe Food from Production to Consumption*. (Washington, DC: National Academy Press, 1998)

¹⁷ United States. Congress. House of Representatives. 110th Congress, 1st Session. *H.R. 1148, The Safe Food Act of 2007*. [introduced in the House of Representatives 16 February 2007]. 110th Congress. Congressional Bills, GPO Access. < http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h1148ih.txt.pdf>

for harmful pathogens. The bill builds upon existing Hazard Analysis of Critical Control Points (HACCP) programs, a prevention-based food safety system, but would not limit the agency administrator to rely solely on this program.

In addition, the Safe Food Act would create a system of risk-based inspection, “determined by the type of food handled and the type of processing to which the food is subjected.”¹⁸ Food establishments would receive a rating of between one and five, based on public health considerations and strong scientific evidence, to determine the frequency and timing of inspections. The risk-based inspection program would continue the “carcass-by-carcass” inspections by government employees at slaughterhouses and perform daily inspections of high-risk products. All facilities now regulated by the FDA would be inspected at least annually, with many inspected much more often. This system of risk-based inspection would allow for the best use of government resources while still providing safety checks along the entire “farm-to-fork” continuum.

Consumption of imported foods continues to rise exponentially, and the Safe Food Act recognizes and addresses this important component of our food supply.¹⁹ Due to limited resources, the FDA currently inspects only about one percent of food entering the U.S., and does little to evaluate foreign food safety systems or inspect foreign plants.²⁰ The Safe Food Act would give the Food Safety Administration the authority to evaluate and certify a country’s food safety program to ensure that it is “at least equivalent to the food safety program in the United States.”²¹ The Administration would have the authority to audit the certified countries and would ensure continued compliance at least every five years.²² The proposed law also requires routine inspections of foreign food imports to ensure that the food is safe and properly labeled. Under the Safe Food Act, foods would no longer have an “open visa” to enter the U.S. without inspection or regulation.

¹⁸ Congresswoman Rosa L. DeLauro. <http://www.house.gov/delauro/safe_food_act_109.html>

¹⁹ Jerardo, Alberto. *The Import Share of U.S.-Consumed Food Continues To Rise*. United States Department of Agriculture. FAU-66-01 (July 2002) <http://usda.mannlib.cornell.edu/usda/ers/FAU/2000s/2002/FAU-07-03-2002_Special_Report.pdf>

²⁰ General Accounting Office (GAO), Food Safety. *Overview of Food Safety and Inspection Service and Food and Drug Administration Expenditures* (GAO/T-RCED-00-300T). (September 20, 2000) (statement of Lawrence J. Dyckman, Director, Food and Agriculture Issues, Resources, Community, and Economic Development Division, GAO). <<http://www.gao.gov/archive/2000/rc00300t.pdf>>

²¹ United States. Congress. House of Representatives. 110th Congress, 1st Session. *H.R. 1148, The Safe Food Act of 2007*. [introduced in the House of Representatives 16 February 2007]. 110th Congress. Congressional Bills, GPO Access. <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h1148ih.txt.pdf>

²² *id.*

The Safe Food Act further mandates the establishment of a national system for “tracing food and food producing animals from point of origin to retail sale.”²³ The Act would allow companies to issue voluntary recalls should their product be deemed unsafe, but also grants authority for the Food Safety Administration to issue a mandatory recall if the company fails to do so. This will ensure quicker removal of contaminated products from the market and increase consumer confidence in the food supply.

Because our understanding of foodborne illness is constantly evolving, the Safe Food Act recognizes the importance of outbreak investigations and scientific research to improve the safety of the food supply. The legislation would require the CDC and state health departments to share outbreak investigation information with the Food Safety Administration. The bill also would give the Food Safety Administration the responsibility to maintain an “epidemiological system dedicated to food-borne illness identification, outbreaks, and containment.”²⁴ Detailed food attribution data is critical for risk assessments and also for the identification of emerging foodborne pathogens that could endanger the public.

The Safe Food Act would create a single food agency with the necessary authority to fulfill its mission to put safe food on America’s tables. The Administration could detain imported food and recall tainted food from the market. It would provide the necessary authority to penalize persons or organizations for violating food safety laws, allowing both civil and criminal penalties, and also provide whistleblower protection for individuals who disclose food safety violations.

The Act would work to prevent foodborne illness and bioterrorism without grand schemes or an inflated budget. Instead, it ensures a strong national program, outbreak surveillance, and effective, honest public communication. The food industry remains the first line of defense, but the Act recognizes that effective industry programs require government monitoring and oversight.

U.S. food safety laws are more than a century old and were not designed to deal with modern issues such as bioterrorism, antibiotic resistance, or tainted produce. The September 11, 2001 terrorist attacks demonstrated the need for enhanced national security, and the recent

²³ United States. Congress. House of Representatives. 110th Congress, 1st Session. *H.R. 1148, The Safe Food Act of 2007*. [introduced in the House of Representatives 16 February 2007]. 110th Congress. Congressional Bills, GPO Access. < http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h1148ih.txt.pdf>

²⁴ *id*

produce outbreaks serve as a reminder that much more must be done to protect the food supply. The Safe Food Act draws from these recommendations and creates a program that puts public health at the forefront of food safety in America.