

May 13, 2009

The Honorable Edward Kennedy
Chairman
Committee on Health, Education, Labor & Pensions
Room SD 428
United States Senate
Washington, DC 20510

The Honorable Henry Waxman
Chairman
Committee on Energy & Commerce
Room 2125 RHOB
U. S. House of Representatives
Washington, DC 20515

The Honorable Michael Enzi
Ranking Member
Committee on Health, Education, Labor & Pensions
Room SH835
United States Senate
Washington, DC 20510

The Honorable Joe Barton
Ranking Member
Committee on Energy & Commerce
Room 2322A LHOB
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Kennedy and Waxman and Ranking Members Enzi and Barton:

On behalf of the undersigned public health organizations, we want to thank you for your leadership in protecting American consumers from unsafe foods. Public health departments, laboratories, and public health workers are at the front lines of fighting foodborne-illness outbreaks. They are responsible for establishing and enforcing safety standards, inspecting food facilities, detecting foodborne illnesses, identifying food contaminants, and helping to quell outbreaks. Unfortunately, our current food safety system is not adequate and lacks the resources to respond to many modern threats to our foods, and the food safety law is antiquated and does not provide FDA with the tools and authorities it needs to protect public health. In order to better ensure the safety of the food supply, we need a strong FDA to institute preventive controls and respond quickly when the worst case happens.

We look to your leadership in developing appropriate policies to address this major public health problem. We wish to offer our recommendations for your committees to design a strong food safety bill that will make strides towards transforming the Food and Drug Administration (FDA) into a modern, proactive agency.

Various food safety bills currently being considered share critically important provisions that would protect the public's health, such as establishing mandatory recall authority and improving the traceability of food. We strongly support these provisions and urge your committees to ensure that any food safety legislation passed by the 111th Congress also includes the following:

- *Support for State and Local Food Safety and Surveillance Capacity* – Preventing, detecting, and responding to foodborne outbreaks starts at the state and local levels. Unfortunately, surveillance capacity remains in the nascent stages in many areas of the country and is being threatened by squeezed state budgets. In the last year, over 11,000 public health positions have been lost and that number is expected to double in the next year, adversely affecting a range of public health functions, including food safety. We recommend the creation of a grant program that would ensure a minimum state and local food safety capacity throughout the country. Similar to the Public Health Emergency

Preparedness grants administered by the Centers for Disease Control and Prevention (CDC), such a program would bolster prevention efforts in the field. Provisions establishing state and local capacity building grants included in the Durbin (sec. 205 of S. 510) and DeLauro bills (sec. 207 of H.R. 875) could be used to enhance surveillance systems; bolster and train the workforce; improve coordination and information sharing among federal, state and local health departments; and speed investigations. Surveillance capacity could be further strengthened by the establishment of a Working Group for Improving Foodborne Illness Surveillance (sec. 304 of H.R. 875), and FDA using its authority to support state and local agencies through mechanisms like the recently-established rapid response team grants.

- *Risk-Based Inspection and Inspection Frequency* – Government inspection of food facilities and products is fundamental to food safety. Currently, FDA inspects food facilities an average of once every 10 years. Legislation should set as a minimum requirement that FDA-regulated food facilities be inspected at least once a year, with higher-risk facilities inspected more frequently. The frequency of inspection should be based on a risk analysis, considering factors such as the type of food being handled and its associated contaminants, and production and/or processing methods. We urge you to support the risk-based minimum inspection frequencies proposed by the Food Safety Modernization Act (DeLauro, H.R. 875). We further urge Congress to ensure that federal, state, and local health departments have the resources, workforce and funding necessary
- *Testing and Reporting Requirements, Access to Records, and Affirmative Reporting of Positive Test Results* - In the ongoing *Salmonella* outbreak linked to peanut products, federal regulators never saw test results showing dangerous contamination levels until it was too late. Food companies should be required to maintain prevention plans based on federally established safety standards, continuously conduct product and environmental sampling to test for contamination, *and* to notify government officials of test results showing there may be a food safety problem at a plant. We urge you to support mandatory testing requirements and a provision requiring mandatory reporting of test results that find contamination. We also support full transparency and disclosure to state and local health departments of the names and addresses of food establishments subject to voluntary or mandatory product recalls (similar to last year's USDA regulations).

The next contaminated food outbreak could be just around the corner. It is imperative that we move quickly toward a strong national food safety system that inspires confidence in the American public. We look forward to working with you as you move forward with food safety legislation in the 111th Congress.

Sincerely,

American Public Health Association
Association of Public Health Laboratories
Association of State and Territorial Health
Officers

Center for Biosecurity, University of
Pittsburgh Medical Center
National Association of County and City
Health Officials
Trust for America's Health