

**Written Testimony of  
Robert E. Brackett, Ph.D.  
Senior Vice President and Chief Science and Regulatory Affairs Officer**

**before**

**U.S. House of Representatives  
Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations**

**July 31, 2008**

Thank you, Mr. Chairman. My name is Robert Brackett and I am Senior Vice President and Chief Science and Regulatory Affairs Officer for the Grocery Manufacturers Association (GMA). We represent the world's leading food, beverage and consumer products companies. GMA promotes sound public policy, champions initiatives that increase productivity and growth and helps to protect the safety and security of the food supply through scientific excellence.

The members of the Grocery Manufacturers Association share your commitment to ensuring the safety of our nation's food supply. The recent investigation into the foodborne illnesses outbreak due to *Salmonella* Saintpaul is the latest event to challenge our food safety system. The inability of the current food safety systems to rapidly trace and accurately determine the source of the *Salmonella* Saintpaul outbreak is a major contributor to the erosion of consumer confidence in the safety of the nation's food supply.

The food industry has an abiding interest in safe food. Maintaining consumer confidence in our products, our brands, and our companies is the single most important goal of the food, beverage, and consumer packaged goods industry. Product safety is the foundation of consumer trust. Food and beverage companies implement a variety of food safety measures and controls to ensure the safety and quality of our products and ingredients. Ensuring the safety of our products is our most important priority. We devote enormous resources toward this goal, and effective regulation and oversight by federal regulatory agencies are critical and complementary elements of the fabric of consumer protection. We agree that steps must be taken to help FDA and the food industry address food safety challenges. We believe that a risk-based approach to prevention of contamination should continue to be the foundation of the nation's food safety strategies.

Current US regulations require product tracing—one step forward and one step back. GMA supports better supply chain management, including responsible recordkeeping as required by the Bioterrorism Act, to ensure the required tracing can be accomplished rapidly when needed. GMA also supports a management program that imposes the same requirements on each step in the supply chain to enable ingredients to be traced back to the source when necessary and to remove products rapidly from the market if a food safety concern arises. We encourage the use of information technology systems that will facilitate more rapid tracing.

The topic of this hearing is what we have learned as a result of the recent *Salmonella* outbreak. Clearly the first thing we have learned is that FDA is in dire need of additional

resources to carry out its mission of protecting the public from foodborne hazards. We are encouraged by the \$150 million increase for FDA in the FY08 Supplemental as well as the further increases proposed for FY09 and continue to urge Congress to appropriate the resources FDA needs to protect the public health. Second, we have learned that the ability to trace a product is meaningless if the epidemiological data implicate the wrong product. This highlights the need for more resources at the state and local levels to rapidly and thoroughly investigate foodborne illness if it occurs. Third, we have learned that we need to do more to prevent food safety incidents.

We support the requirement that all food companies have a food safety plan, and we believe food companies should be given the discretion to identify appropriate safety controls including traceability programs. Prescriptive, across-the-board new regulatory requirements will stifle innovation, divert resources from proven food safety measures, and will increase food costs at a time of record food inflation.

We should consider that today's food industry relies upon a web of inter-company relationships. Successful interactions among ingredient vendors, food contact packaging providers, re-packers, co-manufacturers, brokers and other suppliers are the precursors to effective food safety management.

GMA has led the effort to provide current guidance to the food industry both domestically and abroad by issuing the GMA Food Supply Chain Handbook in April 2008. This guidance is publicly available and in 5 different languages. This reference

manual represents a “tool chest” for companies in search of examples of successful management practices for suppliers to consider. It complements the value of third party audits and the need for a publicly owned and internationally recognized set of food safety audit criteria. The GMA Handbook clearly states that at a minimum, suppliers and transporters should consider their ability to trace back and track forward the movement of ingredients and finished goods through the supply chain. Being able to locate where all ingredients, including food contact packaging, came from and where all finished goods were sent may be useful in the event of a recall or crisis. The Bioterrorism Act mentioned above mandates that all members of the food chain shall be able to trace goods one step forward and one step backward, as well as know the shipper or transporter of the goods. But traceability was not the real issue in the *Salmonella* Saintpaul outbreak. We really need to modernize our food safety system.

GMA continues to propose that Congress modernize our food safety system by making risk and the prevention of contamination the focus of our food safety strategies. GMA CEO, Cal Dooley and I have testified many times before Congress on the issue of improving food safety. We have consistently proposed the following reforms, many of which are included in legislation already introduced in the House and Senate. These include:

- One, we urge you to give FDA the power to establish safety standards for fruits and vegetables. In particular, give FDA the power to establish food safety standards for particular fruits and vegetables that have repeatedly been involved

in food safety incidents – when risk and science demonstrate standards are needed and will be effective in enhancing public health. Under this proposal, FDA should be required to work with stakeholders to develop appropriate standards and FDA should be given the power to work with the states to tailor these standards to meet local growing conditions. FDA should be given the power to work with USDA and states to ensure standards are being met.

- Two, we urge you to require food companies to have a food safety plan. In particular, every food company selling food in the US should conduct a food safety risk evaluation that identifies potential sources of contamination, identifies appropriate food safety controls, verifies that those controls are effective, and documents those controls in a food safety plan subject to FDA review. Industry and FDA should focus and allocate resources towards a prioritized list of high risk food products as suggested by the FDA Food Protection Plan.
  - a. On traceback, the area of the greatest concern, by far, is fresh produce, as is evidenced by the recent *Salmonella* incident. The problem is that these products are comingled at various points in the supply chain in order to meet customer requirements, and so the original source is easily lost. There is no simple answer to the problem. But you might consider legislation directing FDA to conduct a pilot project with a segment of the fresh produce industry to see what improved practices might be adopted that would expedite traceback but still be cost-effective. Such a pilot

project would explore and evaluate new methods to quickly identify the source of a fruit or vegetable involved in a foodborne outbreak. This pilot project should include at least 3 different types of fruits or vegetables that have been the subject of outbreaks within the past five years in order to address the varying supply chains for different commodities.

- b. Congress and FDA should evaluate the traceback requirement in the Bioterrorism Act to determine whether it should be extended to farms, given recent developments.
- c. There is also one inadvertent outcome from the Bioterrorism Act. The law clearly requires food companies to keep the "one up-one down" records. However, there appears to be some ambiguity as to whether the law gives FDA express authority to check during a routine inspection to see if a given company is, in fact, keeping such records. We believe Congress should clarify FDA's authority. By expressly granting FDA such authority, FDA can better assess whether companies are properly prepared to trace product when a foodborne incident occurs.
- o Three, require every food importer to police their foreign suppliers. In particular, Congress should require that all food importers document, based on FDA guidance, the food safety measures and controls being implemented by their foreign suppliers and should require food importers to make their foreign supplier

food safety plan available to FDA. Food importers who demonstrate that their products pose no meaningful risk should be eligible for expedited entry at the border so FDA can give greater scrutiny to high risk imports. In September of 2007 GMA issued “*Commitment to Consumers: The Four Pillars of Imported Food Safety*” a comprehensive proposal designed to protect consumers by strengthening, modernizing, and improving the system governing food imports. Our proposal envisioned new mandatory requirements for the food industry to assure the adequacy of foreign supplier food safety programs and new responsibilities for FDA. Other elements included a new program to help identify and prioritize imports of potential concern, new efforts by FDA to help enhance the capacity of foreign governments to prevent and detect food safety issues, improvements to FDA’s scientific capabilities and its use of information technology, and a significant increase in FDA resources. Underlying this comprehensive set of proposals is a fundamental emphasis on prevention.

- Four, build the capacity of foreign governments and enlist the help of the private sector. In particular, Congress should direct FDA to develop a plan to help build the scientific and regulatory capacity of major exporters to the U.S. and should create a registry of private laboratories that meet FDA standards. In addition, FDA should enlist the help of accredited third party auditors to ensure that high risk imports meet federal safety standards, to verify the contents of foreign supplier safety plans, and to help identify those imports eligible for expedited entry. Such third party audits would not replace FDA inspections, but would

provide FDA with information that could be used to assess where to best place their resources.

Mr. Chairman, we are grateful for the opportunity to work with you to promote a risk-based approach to food safety regulation and to allow FDA the flexibility to respond to emerging risks in the manner that most efficiently uses the agency's precious resources. We look forward to working with you to develop and implement improvements that will make risk and prevention the focus of our nation's food safety systems.

**- Executive Summary -**  
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Food and beverage companies implement a variety of food safety measures and controls to ensure the safety and quality of our products and ingredients. Ensuring the safety of our products is our most important priority. We agree that Congress must take steps to help FDA and the food industry address food safety challenges. We believe that a risk based approach to the prevention of contamination should continue to be the foundation of our nation's food safety strategies.

From the recent *Salmonella* Saintpaul outbreak we have learned that:

- FDA is in dire need of additional resources to carry out its mission of protecting the public from foodborne hazards;
- the ability to trace a product is meaningless if the epidemiological data implicate the wrong product; and
- we need to do more to prevent food safety incidents.

The inability of the current food safety systems to rapidly trace and accurately determine the source of the *Salmonella* Saintpaul outbreak is a major contributor to the erosion of consumer confidence in the safety of the nation's food supply and highlights the need for improvements.

GMA continues to propose that Congress modernize our food safety system focusing on risk and the prevention of contamination. In particular, we urge Congress to:

- One, give FDA the power to establish safety standards for fruits and vegetables.
- Two, require food companies to have a food safety plan.
- Three, require every food importer to police their foreign suppliers
- Four, build the capacity of foreign governments and enlist the help of the private sector.