

**Summary of Testimony from Reginald L. Brown
of Florida Tomato Exchange
Before Subcommittee on Oversight and Investigations of House Committee
On Energy and Commerce U.S. House of Representatives July 31, 2008**

At the time of the salmonella outbreak in April 2008, Florida was the only state in the country growing tomatoes. In early June 2008, the FDA indicated there was a connection between the salmonella outbreak and tomatoes from Florida. It is difficult to challenge the Center for Disease Control's (CDC) and the Food and Drug Administration's (FDA) decision in associating some tomatoes with the outbreak because we are not privy to the information they had before them.

FDA failed its principal task of finding the source of the salmonella and failed to promptly release those areas which were "cleared" by FDA's own testing or by the fact that tomatoes from these areas were not in the marketplace. As a result, the Florida tomato industry has suffered tremendously. Everyone associated with Florida's tomato industry, all the workers, farmers and packers in the designated areas and outside those areas have been harmed. We estimate the loss to the growers and packers to be \$100 million, and they will continue to lose sales due the decline in consumer confidence caused by FDA.

The Florida tomato industry has taken the lead position in food safety for fresh tomatoes. Tomatoes from Florida are the only tomatoes in the U.S. subject to government-administered, mandatory food safety regulations. Further, these regulations were established at the request of the industry with the specific purpose of reducing food safety risks and the probability of such an outbreak.

Recommendations

1. Congress should provide relief to growers, packers, and repackers in Florida and throughout the U.S. for real losses suffered to date and those they continue to suffer through no fault of their own.
2. It is critical to the entire tomato industry that the FDA exercises its authority to establish mandatory guidance based on "Commodity Specific Guidelines for the Tomato Supply Chain." We also call on the agency to develop a mandatory food safety requirement for fresh tomatoes throughout the supply chain.
3. We strongly encourage FDA to create consulting committees made up of industry representatives and others. These consultants could then be integrated into outbreak management teams in the event of an outbreak so that experiences such as those suffered in the 2008 salmonella Saintpaul outbreak could be minimized.
4. We encourage FDA to continue to expand their current Tomato Initiative to all points in the tomato supply chain.
5. The development of improved risk communication tools for future outbreaks would greatly increase the understanding of the actual risk probability in "suspected" items and the risk posed to the public.
6. We strongly urge the formation of a "Blue Ribbon" group of experts from both inside and outside the government to conduct a review of the handling of the 2008 salmonella outbreak by state and federal agencies.

TESTIMONY
OF
REGINALD L. BROWN
EXECUTIVE VICE PRESIDENT
FLORIDA TOMATO EXCHANGE

BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS OF
HOUSE COMMITTEE ON
ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES

JULY 31, 2008

Introduction

My name is Reggie Brown. I am the Executive Vice president of the Florida Tomato Exchange (the Exchange). We generally harvest from November through May. Almost half of all the fresh tomatoes consumed in the United States year-round come from Florida. During the winter months from October to about the end of May substantially all of the domestically produced fresh tomatoes in the marketplace come from Florida.

Tomato growers have seen major challenges in recent years from hurricanes, invasive pests and diseases, to increased international competition from Mexico and Canada. The fruit and vegetable industry is a critically important sector of Florida agriculture, which is second only to tourism in importance to the state's economy. According to a 2006 University of Florida study, agriculture, food manufacturing, and natural resource industries in Florida directly create more than 400,000 full-time and part-time jobs, with a total employment impact of more than 700,000 full-time and part-time jobs. The direct value-added contribution is estimated at \$20.32 billion, with a total impact of \$41.99 billion. Florida tomatoes are the largest vegetable crop in the state, with a value of over a half-billion dollars annually.

During the winter, Florida competes in the U.S. marketplace with Mexico and Canada. During the six-to-seven-month harvesting season, Florida's tomato growers employ more than 30,000 tomato workers.

Background

At the time of the outbreak of salmonella in April 2008, Florida was the only state in the country growing tomatoes. In early June 2008, the FDA indicated there was a connection between the salmonella outbreak and tomatoes from Florida. It is difficult to challenge the Center for Disease Control's (CDC) and the Food and Drug Administration's (FDA) decision in associating some tomatoes with the outbreak because we are not privy to the information they had before them. However, we do think that decision was highly questionable and that once it was made, FDA failed to take appropriate actions in associating salmonella with tomatoes from a source other than from Florida.

In summary, FDA failed its principal task of finding the source of the salmonella and failed to promptly release those areas which were "cleared" by FDA's own testing or by the fact that tomatoes from these areas were not in the marketplace. As a result, the Florida tomato industry has suffered tremendously. Everyone associated with Florida's tomato industry, all the workers, farmers and packers in the designated areas and outside those areas have been harmed. We estimate the loss to the growers and packers to be \$100 million, and they will continue to lose sales due the decline in consumer confidence, caused by FDA. More immediately, FDA 's recent "release" of tomatoes by removing the listing from their website placed Florida's growers in a very difficult position as to planting for next season. It is not an exaggeration to say that the availability of tomatoes from Florida may be reduced for the upcoming season as a result of FDA's actions. Our growers and shippers should be compensated for their

losses.

We strongly urge the FDA to develop mandatory trace-back regulations for the entire tomato industry, from the farmer's field to the last retailer, based on the mandatory rules for food safety and trace-back in Florida, the guidelines adopted by the California tomato growers, and the national guidelines for tomatoes prepared by industry leaders (described in more detail below). This course of action will provide the consuming public with additional safety and confidence and will provide the CDC and FDA with the ability to quickly trace back an outbreak involving tomatoes to the source of the contamination, thereby avoiding injury to innocent tomato growers, packers, and others in the distribution system. Other recommendations are proposed below.

Florida's Tomato Growers Lead the Country in Food Safety and Trace Backs

The Florida tomato industry has taken the lead position in food safety for fresh tomatoes. Tomatoes from Florida are the only tomatoes in the U.S. subject to government-administered, mandatory food safety regulations. Further, these regulations were established at the request of the industry with the specific purpose of reducing food safety risks and the probability of such an outbreak.

The Florida tomato growers, along with University of Florida faculty and state regulators, developed a comprehensive food safety system for growing and packing fresh tomatoes. Details of the program can be found at www.floridatomatoes.org. This program employs the most current good agricultural practices and best management practices and includes third-party

audits for packinghouses and for farms and greenhouses. It is a **mandatory** food safety system for all tomatoes grown in Florida and has been reviewed by the FDA. For many years, Florida's tomato growers have used a trace back system, called "positive lot identification." Using this system, the first buyer of Florida tomatoes can easily obtain the name of the farm and the location of the specific lot where the purchased tomatoes were grown.

We have also been proactive at the national level regarding food safety, working with our counterparts in California, Mexico, and Canada, as well as the United Fresh Produce Association and other groups. We have published the second edition of, "Commodity Specific Food Safety Guidelines for the Fresh Tomato Supply Chain." These guidelines recommend food safety practices to minimize the microbiological hazards associated with fresh tomatoes and fresh-cut tomato products at all points of the fresh tomato supply system.

Certainly, the adoption of Florida's requirements, the trace-back program employed by the California tomato farmers, and the commodity-specific guidelines mentioned above can be adopted for the entire tomato industry.¹ We are strongly supportive of mandatory regulations modeled on these programs as proposed in HR 5904.

Issues Regarding the Handling of the Salmonella Saintpaul Outbreak

We believe a number of things went wrong from the beginning of this investigation, and it warrants oversight by this Committee and, we believe, by

¹ We believe other perishable agricultural commodities and their distribution systems are different than tomatoes and should be addressed separately.

others as well. We raise the following issues and comments based on incomplete information because complete information was not provided to us by either the CDC or the FDA. While we truly believe mistakes were made, the damage has been done. We hope we can regain our market and convince our consumers that the tomatoes we grow and ship from Florida are among the most wholesome and safest in the world. The food safety system we have adopted is unprecedented in the fresh tomato industry and uses the best practices available. We raise these issues to be constructive so that next time CDC and FDA can make the right association and find the source of contamination in short order. And, there will be a next time for tomatoes and for other perishable commodities because no system is 100% risk free. Risk reduction is the realistic goal of all food safety programs.

We believe the CDC and the FDA incorrectly presumed tomatoes to be associated with the salmonella outbreak. We believe the data reviewed indicated tomatoes and salsa items together were the original problem. Indications that tomatoes and salsa coming from Hispanic outlets were associated with salmonella and that the saintpaul strain of salmonella has not previously been associated with tomatoes should have been given more weight.

We believe the FDA erred in indicating that the outbreak was associated with tomatoes from Florida. While it is easy to suggest that the salmonella came from Florida tomatoes since Florida was the only state in the U.S. producing tomatoes in late April, we believe additional information should have been factored into this decision. Most importantly, it appears the FDA totally ignored

the locations of the first outbreaks: the Southwest U.S., New Mexico and Texas. In so doing, it ignored the most likely source of tomatoes and/or salsa: Mexico. In addition, given the cost of fuel, it was most unlikely that tomatoes consumed in New Mexico came from Florida.

We believe the CDC needed to share its first questionnaire and the information that led it away from Mexico as a source.

We believe the FDA erred in not finding the source of this outbreak, and we believe the FDA erred in not promptly “releasing” tomatoes from Florida given the fact that the test done on Florida tomatoes showed no signs of salmonella.

We believe the FDA erred in not bringing experts from the industry to assist with the trace back efforts.

We believe that the FDA erred in not providing and communicating standards used to determine the risks to consumers from the beginning when a warning was issued, when all tests came back negative, when other items (peppers) were added, to the end.

We believe the FDA erred in not exploring the tomato distribution system in the U.S. prior to this outbreak. During this outbreak, an FDA official described the tomato distribution system as “complex.” FDA has had prior experience in dealing with trace backs involving tomatoes and should have developed a trace back plan prior to this outbreak as well as a procedure for industry assistance. My industry colleagues on the panel will, or have already, addressed the structure of the industry and the trace back system that exists for tomatoes.

Recommendations

As the group most economically harmed by the salmonella outbreak due to the CDC's and FDA's actions and/or lack of actions in associating fresh tomatoes with the outbreak and in failing to quickly find the source of the outbreak and failure to promptly remove Florida as a source of the outbreak, we have a number of recommendations for this Committee to consider.

1. Congress should provide relief to growers and packers in Florida and throughout the U.S. for real losses suffered to date and those they continue to suffer through no fault of their own. From our perspective, we are in the identical situation as growers of other commodities whose crops were destroyed by natural disasters. The difference is only that our disaster was government driven.

2. It is critical to the entire tomato industry that the FDA exercises its authority to establish mandatory guidance based on "Commodity Specific Guidelines for the Tomato Supply Chain." We also call on the agency to develop a mandatory food safety requirement for fresh tomatoes throughout the supply chain. Such a program could be modeled on the Florida and California programs, allowing for slight modifications to accommodate regional conditions as they exist. A one-size-fits-all approach to food safety is inappropriate. FDA should be encouraged to continue consultations and cooperation with industry groups to accomplish this goal. Current legislative proposals such as HR 5904 call for such regulations, and we fully support them.

3. We strongly encourage the creation of consulting committees by FDA be made up of industry representatives and others. These consultants could then be integrated into outbreak management teams in the event of an outbreak so that experiences such as those suffered in the 2008 Saintpaul outbreak could be minimized. These consultant groups could be structured to avoid concerns about confidentiality and conflict of interest. Everyone has a common interest in identifying and removing the source of any outbreak as quickly as possible.

4. We encourage FDA to continue to expand their current Tomato Initiative to all points in the tomato supply chain. We also encourage FDA to expand their efforts to include trace back exercises that include small, medium, and large growers, packers, and repackers as well as any others who are part of the distribution system. Such efforts would improve the level of knowledge within the FDA and provide experiences designed to expedite future trace back efforts in the event of an outbreak.

5. The development of improved risk communication tools for future outbreaks would greatly increase the understanding of the actual risk probability in “suspected” items and the risk posed to the public. Good risk analysis and informed assumptions and recommendations would facilitate greater understanding for all concerned. Such improved communications would improve public health rather than promote public hysteria.

6. We strongly urge the formation of a “Blue Ribbon” group of experts from both inside and outside the government to conduct a review of the handling of the 2008 salmonella outbreak by state and federal agencies. The purpose of

this review would be to improve their effectiveness in handling future outbreaks.
Learning from mistakes made is the only way to make the world a better place as
a result of our unfortunate experiences.

Thank you for the opportunity to present these comments for your review.