

Statement of Lee Frankel, President
FRESH PRODUCE ASSOCIATION OF THE AMERICAS
 Nogales, AZ
 before
 Center for Food Safety and Applied Nutrition
 Food and Drug Administration
 Public Hearing
 Microbiological Safety of Produce
 November 17, 1997
 Arlington, VA
 Docket No. 97N-0451

My name is Lee Frankel, and I am the president of the Fresh Produce Association of the Americas which is based in Nogales, Arizona. The association represents the interests of American businesses involved in the marketing of fresh fruits and vegetables grown mostly on the west coast of Mexico. During the last shipping season, Association members were responsible for two-way trade exceeding \$1.2 billion. The primary shipping season is between November and June.

Produce handled by Association members include: tomatoes, eggplant, squash, zucchini, cucumbers, bell and chili peppers, watermelons, cantaloupes, honeydew melons, corn, beans, grapes, mangoes, and soon, avocados.

The Association and its members are fully supportive of efforts to ensure a safe food supply for American consumers. Our safety record is excellent. Nevertheless, the Association has adopted the Five-Step Food Safety Assurance Standards which address such key points as water treatment, hygiene for workers, pro-active pesticide practices, minimal or reduced handling practices, and protective packinghouse systems. (I am submitting a copy of the Standards for the record.) One factor I would like to point out is that Mexican producers have been long aware of pathogens, the need for clean water, tracebacks, and other precautions because all of them affect the condition in which the produce will arrive at the final destination. Practical forms of GMP and GAP already exist for produce imported from Mexico--otherwise there would not have been growth in the industry.

In response to the FDA's announcement that it will hold public meetings to discuss practices to minimize microbial food safety risks for produce as part of President Clinton's initiative to ensure the safety of imported and domestic fruits and vegetables and other foods, the Fresh Produce Association would like to offer the following comments.

President Clinton's food safety initiative and the proposed "guidance" must be based on science. There is no evidence that food borne illnesses are increasing at a rate greater than the expansion of the food service and manufacturing industries. There also is no credible

evidence that food borne illnesses are a major public health crisis although it is quite clear that public awareness and media interest have increased.

There is no evidence that imported fruits and vegetables are more likely to be contaminated than domestic produce. In view of the large volume of fruits and vegetables grown, harvested, shipped, sold and consumed, the incidence of food borne illnesses is extremely small. The scattered incidences are truly anomalies. In fact, information and data given by US officials to foreign government representatives in Washington seem to show a higher rate of domestic fruits and vegetables being involved in outbreaks of food borne illnesses than imports.

The undue focus on imported fresh fruits and vegetables by the President's initiative and by the FDA is disturbing and unfair. As noted, no scientific evidence has been offered by government officials to warrant targeted scrutiny of imported fruits and vegetables beyond the level for domestic produce.

There is need for more research to better quantify what real risks exist with fresh produce and what benefits can be derived through various safety measures.

There should be increased and improved training of public health officials to better track sources of food borne illnesses. (For instance, there appears to have been too many automatic assumptions that a person sick with e. coli O157:H7 ate food that had been contaminated before it was prepared.) Since contamination can occur in many ways for many reasons, public health personnel must be trained to determine the real cause--not simply the most convenient one because of prejudice or lack of understanding of the seed-to-table process.

We have noticed these prejudices and ignorances displayed by some public health officials who say that since they would not eat fresh fruits and vegetables in certain overseas countries, they properly can assume that fresh produce from those countries still would not be safe to eat when they are imported into the United States. Their assumption shows their lack of knowledge and understanding of the farming, harvesting, packing and shipping processes of foreign fresh produce exporting industries. They also do not understand that fruits and vegetables--which are clean and wholesome when they leave the farm--can get contaminated during food preparation and handling. After all, Americans traveling in those countries often associated with contaminated fresh produce would not eat even US-grown produce if it is not cooked. In fact, the wise traveler avoids all raw produce regardless of where it is grown because the contamination can occur at the kitchen level.

The proposed "guidance" must be legal under GATT and WTO, and must not curtail any international obligations of the United States. The guidance must not become a non-tariff barrier because foreign governments can be expected to impose similar onerous requirements on American agricultural exports.

The "guidance" also must assure national treatment. Domestic produce must face the same level of regulatory scrutiny and testing as are required for any imported product. There must be no discriminatory treatment of imports under the guise of food safety or the false premise that only America has the correct solutions for food safety. Under the safe foods initiative, FDA is to look at "national systems" in foreign countries for levels of protection and determine if imports are likely to be adulterated. GAP and GMP reviews of individual firms will be conducted and imports stopped. There does not seem to be any assurance the those inspections will be carried out by the FDA in a timely manner so as not to hamper normal export operations.

It appears also that if the FDA logic were followed to its conclusion, if one US grower/producer/shipper is found to not meet the US standard, FDA would have to stop all shipments of US-grown produce. Put another way, FDA seems to be saying that shipments from a foreign country would be stopped if FDA is not allowed to inspect or if the FDA finds non-US standards in place, but FDA would not stop shipments in the US even if groups of farms or an entire area were not following the proposed "guidance." The proposed food safety program, therefore, appears to lack assurance of "national treatment" for imports.

Currently, imported produce are five times more likely to be inspected by the FDA than domestic produce. By virtue of the fact all imports must go through a choke-point, i.e., port of entry, they are easier to monitor. That should not be justification for a different level of scrutiny that is not supported by scientific evidence.

At present, domestic farmers can seek Section 18 special use exemptions for pesticides which if found on an imported fruit or vegetable would require that import to be destroyed immediately. Section 18 exemptions, therefore, create a dual standard. We are concerned that similar double standards might be written into the proposed guidance, especially in regard to how and when foods are considered to be adulterated. If the Clinton Administration is truly interested in improving public health, it must not repeat and perpetuate the double standards that guide existing FDA produce programs.

FDA has told industry groups that the proposed "guidance" will not be a regulation or mandatory rule. From experience, we know that such documents, regardless of what they are called, have a tendency to become *de facto* standards in real life. Produce buyers--not to mention state and local officials--will adopt them and treat them as standards. Fortunately, much of the volume of exports from Mexico are from growers who are already working with third-party certification programs so that guidances are already in effect as noted earlier. We urge and ask, therefore, to have the proposed "guidance" based solidly on facts and science, and that it will be effective in doing what it is intended to do. The "guidance" should be checked and double-checked to make sure that each recommended action will have a direct and meaningful impact on improving the safety of produce and all foods, regardless of country of origin.

We are also concerned that so much of the responsibility for preparing the "guidance" is with the FDA, even though the USDA will be involved. While the FDA might understand microbiological contamination and manufacturing processes, it is not familiar with farming and agricultural commodity operations and procedures. We urge FDA to treat USDA as a true partner in this endeavor, and to defer to its expertise on matters with which the FDA is not usually involved. We also urge the FDA to use all available resources, including government health and agricultural agencies around the world. We also ask the FDA to approach this task with an open mind and discard any preconceived opinions about farm operations.

As part of its effort to obtain facts, FPAA urges the FDA to hold field hearings or grassroots meetings and conduct facilities visits in foreign countries to learn about, and better understand, production processes and the high levels of sophistication that already exist in foreign countries and are practiced by foreign growers. Visits to farms are absolutely necessary before FDA officials finalize the proposed "guidance."

At least one of the grassroots meetings should be held at a location (e.g., Arizona or Mexico itself) where first-hand information on Mexican produce can be gathered. Texas, California, and Florida are not appropriate locations to learn about Mexican agriculture and produce. The hearings or meetings should be held at, or as close as possible to, the production areas.

In conclusion, we would like to express our concern that this entire effort to create a guidance document will be focused only on imports and little will be done about domestic farming practices. We are also concerned that other countries will adopt similar rules and regulations that will affect exports of American fruits and vegetables.

We realize the FDA and the USDA both face a difficult challenge. We extend, therefore, our cooperation and willingness to work towards a scientifically based program.

Furthermore, we extend an invitation to this panel and others working on the "guidance" to visit Nogales, Arizona and the growing regions in Mexico. Association members and the growers in Mexico promise their cooperation.

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Date November 21, 1997

Subject Docket No. 97N-0451

I am submitting for the record the full statement of Mr. Lee Frankel, President of the Fresh Produce Association of the Americas, who testified before the panel of experts on Monday, November 17, on the subject of microbial contamination and fresh produce.

Attachment: 4 pages Full statement for the record.