



June 8, 2009

Honorable Henry Waxman, Chairman
Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman and Ranking Member Barton:

Your commitment to the safety of our nation's food supply is well known, respected, and appreciated by your colleagues and those of us in the business of providing safe, wholesome, and affordable food products to consumers. Americans enjoy one of the safest food supplies in the world and to that end, food safety is the number one goal of the American Meat Institute (AMI) and its members, as it should be for anyone processing food products.¹

The Food Safety Enhancement Act of 2009 (the Bill) recently posted on the House Energy and Commerce Committee website raises several issues that warrant further discussion among interested parties and, in that regard, we would like to meet with you and your staff to discuss our concerns in more detail.

The meat and poultry industry is intensely regulated by the U.S. Department of Agriculture, and inspected establishments are subject to daily scrutiny, often using multiple inspectors. Although many sections of the Bill may be viewed by some as necessary and appropriate for FDA-regulated products, those same or similar provisions, if applied to the meat and poultry inspection system, would be a step backward. To this end, AMI is troubled by the potential precedents the Bill could set for products regulated by USDA.

A significant concern with the Bill is its imposition of a user fee that would be paid by the regulated industry for food safety inspection services. Similar proposals for meat and poultry inspection at USDA have been rejected by Congress annually for nearly 30 years. USDA inspection services have long been paid for with government funds because those inspections are activities that inure to the benefit of the general public. Similarly, the inspection activities contemplated by the Bill should be funded not from user or registration fees that, in effect, are a food tax, but from monies appropriated out of the general treasury.

Another concern we have with the bill is the oversight government would have over a company's HACCP program. As the entity that in 1993 petitioned USDA to require that all meat and poultry plants have HACCP plans, AMI believes this prevention and control system must be uniquely suited to address the hazard analysis unique to any facility.

¹ AMI is the nation's oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products and AMI member companies account for more than 95 percent of United States output of these products.

Government controls are anathema to HACCP planning, thus food safety planning must remain the responsibility of the producing company.² The proper role of government in a HACCP-based food safety system is to verify that companies have conducted a proper hazard analysis, identified the hazards reasonably likely to occur in their operation, and develop and implement an appropriate HACCP plan to control those hazards. We do not believe it is the proper role of the government to establish hazards that are reasonably likely to occur and mandate preventive controls, as is provided in the bill.

In addition, although the "full pedigree" traceability required in the Bill conceptually is a laudable goal, the Bill does not appear to contemplate the ramifications for affected companies, particularly small businesses. We could safely predict that the feasibility of implementing such a system, as contemplated in the pilot project, is not possible at least at this time. Similarly, concerns about current feasibility exist with respect to mandating a listing of the countries of origin of all ingredients in processed products, particularly when the ingredients themselves also could easily be processed products comprised of multiple ingredients.

We also believe the section providing the Food and Drug Administration (FDA) with mandatory recall authority warrants review. Meat packing and processing facilities, as do all other food producing companies, have a direct and vested interest in acting quickly to remove adulterated or misbranded products from the market. That fact is an important reason why no meat company has ever refused to conduct a recall, which suggests that mandatory recall authority is unnecessary. Beyond that, however, if the Bill empowers FDA to mandate a recall, it should also provide a measure for accountability in that decision-making process. Just as the persons who produce food are and must be held accountable for their actions and decisions, so should the government with respect to its decision-making.

Section 141 of the Bill is particularly troubling because it would have a direct and immediate impact on meat and poultry products in that it would require FDA to regulate carbon monoxide (CO) as a color additive and to determine whether to approve CO's use as such. This language is an intrusion into science because carbon monoxide is not a color additive and its use has already been determined to be safe and suitable by USDA, FDA, and leading food safety experts. AMI objects to Congress making such independent scientific determinations about the safety or regulatory status of foods. Such decisions should rest with FDA and USDA and be based on sound science.

Finally, the Bill would amend long-standing policies with respect to how FDA makes determinations as to whether a substance is generally recognized as safe and would establish new civil penalty authority, as well as amend the existing criminal penalty structure. These concepts, the above-discussed issues, and others, all warrant careful review and additional discussion before the Committee moves forward.

Thank you for your leadership on the important issue of food safety and for this opportunity to present our perspectives regarding a host of important concerns. To assist the process, we would be pleased to meet with you and Committee staff to articulate with

² The data generated by USDA and the industry over the last 10 years that show dramatic decreases in the incidence rates of various pathogens demonstrate that such an approach has served consumers, USDA, and the meat and poultry industry very well.

much greater specificity our concerns and suggestions with respect to all of the above-discussed concepts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Patrick Boyle". The signature is written in a cursive, flowing style with a large initial "J" and "B".

J. Patrick Boyle
President and CEO