



## **ATT: Food Safety – S. 510**

November 29, 2010

Dear Senator:

Our nationwide coalition of family farm, food system, and rural organizations urge your support for the Manager's amendment to S.510, the Food Safety Modernization Act, including the Tester-Hagan provision. We urge yes votes on cloture, the Manager's amendment, and then final passage.

We believe the HELP Committee and the bill's sponsors have thoughtfully considered the impact of the measure on the family farmers, natural resource conservation, organic farming, and local and regional food enterprises. The Senate bill is a vast improvement over the House measure, and we urge you to pass it and send it to the House for their final consideration during this Congress.

Sadly, the bill as a whole and the Tester-Hagan amendment in particular have been recently the subject of wild and inaccurate claims. Within agriculture, the amendment has been attacked by industry trade associations as too permissive and the bill by some food freedom advocates as too highly regulated. We believe the bill's managers have achieved a responsible balance between these extremes. Many of the letters and communications in opposition to the bill or the amendment have played fast and loose with the actual facts, trying to break apart the carefully considered and negotiated bipartisan package.

The ultimate outcomes of the legislation will depend on decisions to be made during the implementation phase by the FDA, and no one can be sure what those outcomes will be. On balance, we believe the farm sector is better off with rather than without the bill. The alternative from the farm perspective – FDA regulation in the absence of congressional directives – is the more risky and less palatable choice.

The Tester-Hagan provision in the Manager's amendment assures food safety while granting freedom of choice that Americans deserve and expect as well as the opportunity for success that farms and food producers need. Specifically, the Tester-Hagan provision of the Manager's amendment mandates additional levels of food safety assurances not currently in place for small scale on-farm and independent processors by requiring them to:

- submit proof to FDA of compliance with either State and local requirements where they exist; or
- alternatively submit proof of compliance with FDA food safety plan requirements appropriate to the scale of operation and distribution; and
- provide their customers with the name and address of the farm or business to aid transparency and traceability.

The Tester-Hagan provision complements other parts of the Manager's Amendment that advance the continuous improvement of best practices by providing increased training and scale appropriate oversight and verification. The Manager's package successfully guides FDA away from a 'one-size-

fits-all' regulatory structure that would defeat the dual goal of improving real world food safety outcomes and advancing public health by growing the fresh healthy food, healthy farm, healthy community connection.

The Tester-Hagan provision harmonizes with the FDA's 'integrated national food safety system initiative' which relies on an effective network of local, state, and federal authority and personnel to assure maximum safety of all food reaching the plates of Americans. Although the integrated approach has been made more urgent by increasing globalization and complexity in the food system, this approach is relevant to the entire food system, as it relies heavily on coordination between local, regional, and Federal agencies, empowering each in ways that increase their effectiveness in their specific jurisdictions. This model of distributed responsibility is reflected in the details of the amendment.

In light of the disinformation campaign about the amendment, we feel it necessary to mention the following salient features of the Manager's amendment with Tester-Hagan included:

- FDA's current authority is in no way diminished;
- Qualified food facilities, including farm-based facilities, still must register with FDA;
- Qualified facilities must submit evidence to FDA of either Federal or State and local food safety compliance;
- FDA and State and local authorities may still inspect or conduct investigations of qualified facilities;
- FDA may issue recall notices or quarantines if an FDA investigation reveals a food safety problem in a qualified facility; and
- If FDA determines, in the absence of a formal investigation, that there are material conditions in a qualified facility that threaten food safety, then FDA can issue a recall (if appropriate) and require additional federal measures to assure any problems are corrected.

As a result, FDA and the States have ample authority to ensure food safety at the local level. Contrary to some of the rhetoric seen in recent industry letters, the sky is not falling. Inclusion of the Tester-Hagan language in the Manager's amendment is an important step in the reorienting of our food system toward a balanced approach to feeding the world safe and healthy food while supporting rural and urban communities. It will be more effective, in costs and outcomes, than the one-size-fits-all approach large-scale processors would prefer to foist on family farmers and local food entrepreneurs, and will contribute to the economic recovery that we all anxiously seek.

Thank you for your consideration of our views on this important matter. Your support of the Managers' Amendment to S510 will help make food safer without undermining FDA's authority and without creating an unacceptable barrier to the growth of new farming and food business opportunities to provide high quality, healthy food and economic growth and jobs.

Sincerely,



Ferd Hoefner  
NSAC Policy Director