



April 21, 2017

The Honorable Stephen Ostroff
Acting Commissioner
Food & Drug Administration
10903 New Hampshire Avenue
WO1
Silver Spring, MD 20993

Dear Dr. Ostroff:

RE: Import and Domestic Parity and Agricultural Water

Thank you for taking the time to come to the NASDA meeting on February 1, 2017. Your presentation was well received and greatly appreciated. Our Food Regulation Committee discussions were lively and spirited. It was a great meeting with our partners and stakeholders.

As Commissioner Ball indicated to you during our additional discussions, **NASDA appreciates FDA's recognition that the water microbial quality standards in produce safety rule are too complex** to understand, translate and implement and your willingness to consider simplifying the standards while still protecting public health. As you know, we agree with your assessment, and as Commissioner Ball indicated, NASDA remains committed to working with you to find workable solutions to establishing "science-based minimum standards related to...water" as required by FSMA.

Several other issues also came up during our meeting, so in an effort to advance our relationship and resolve those issues we will begin conversing with you and/or your staff on a quarterly basis. However, as we resolve one issue we anticipate that several more issues may arise. The first issue that needs discussion relates to FDA's programs dealing with another FSMA mandate: the programs you will implement to assure a level playing field between foreign and domestic producers. This topic has been important to us for several reasons, especially in the context of the water standard you are willing to reconsider. We have, as you know, been concerned about how FDA will assure equal compliance and enforcement among growers, regardless of geographic location.

FSMA makes it clear that imported and domestic foods must meet the same standards. NASDA's support for FSMA has always been contingent on getting the rules right and how the agency deals with the application of the standards to foreign and domestic produce is a critical part of that support. Food safety is of utmost importance. So is the availability of fresh fruits and vegetables. Margins, especially within the produce industry, are very tight. While food safety is a primary mandate, competition determines market share. How FDA implements the responsibility given to it is paramount to making prevention work and assuring fair trade.

Many farmers that NASDA members hear from are skeptical regarding the ability of the federal government to meet its obligation on a global scale. They are also concerned that some portions of the FDA's FSMA rules are overbearing. Without sound and sensible food safety policy, and program implementation and enforcement, the domestic producers fear that they will be at a disadvantage in the global market place. They seek assurance that FDA's rules will be equally applied to foreign growers - just as they will be to them. Adding credence to the farmers' concern are the results of the latest testing data on peppers from a FDA sampling assignment which indicates that 41 of the 42 samples tested positive for salmonella were imported. This is one instance which further illustrates the need to assure imported foods are safe and meet the same standards as domestic produce.

NASDA realizes that FDA takes its mandate to assure the safety of foreign food seriously; however, unless the growers – and the rest of the public – know what is being done and that the programs are accomplishing the goal of parity between foreign and domestic producers, many will assume, and are already assuming, that the playing field is not level. To date, we do not have adequate data to convince them otherwise.

To satisfy these concerns and seek clarity on this issue, NASDA seeks to create a mechanism by which NASDA is aware of FSMA (FSVP – Foreign Supplier Verification Program) and other food safety program implementation in foreign countries and border crossings that meet the requirements of FSMA. An ultimate goal may be to eventually create a publically available database or similar site that lists countries where inspections have occurred, number of inspections, commodity(ies) involved, technical assistance provided, results of inspections and outreach, sample results, recalls, outcomes, etc. In the meantime, NASDA members need to be able to provide up-to-date accurate information to the food industry on a regular basis, as industry requests. This type of transparent approach will be invaluable not only to NASDA members, but also to FDA and the food safety community at large.

NASDA also seeks assurance that standards are being uniformly applied, especially the agricultural water standard, for all covered produce and that no “systems recognition” for foreign trading partners will occur unless the mandates of FSMA – e.g., equal treatment of domestic and foreign producers – is assured. In the time since our meeting, the dairy industry has also raised the systems recognition issue and the need it has to be assured that US policy assures the same level of protection from foreign imports as is required of domestic producers. We appreciated the hearing on international programs that FDA held in College Park, and we are in the process of reviewing the transcript on this important topic.

We would be remiss if we didn't mention the need to finalize a dispute resolution process as a part of the framework for state-federal cooperation on the implementation of the Produce Safety rule by NASDA members. As you know, this issue is central to our long-term ability to implement a partnership. Its importance is foundation to establishing a commitment and trust between us. The state and federal dialog through the cooperative agreement process has been useful. We believe we are close to establishing a workable process; however, that process should be finalized and recognized as a core value in the culture change required by FSMA.

We recognize the work that must be done to implement FSMA while at the same time communicating openly with your partners. As such, please let us know how we might proceed to establish the information needed to keep us informed of the international efforts FDA is making to implement FSMA.

We look forward to advancing our relationship and will be in touch regarding additional topics in the near future. We are also looking forward to continuing this discussion with NASDA's Steering Committee on Food Safety. For additional information, please contact Bob Ehart (bob@nasda.org).

Sincerely,



Barbara P. Glenn, Ph.D.
Chief Executive Officer

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