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Before the

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**Health Hearing: Healthier America: Legislative Proposals on the Regulation and Oversight
of Food**

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Introduction and Opening Statement

Chairman Morgan Griffith, Ranking Member Diana DeGette, Chairman Guthrie, Ranking Member Pallone and Members of the Subcommittee on Health, thank you for the opportunity to submit this statement for the record.

My name is Steven Mandernach, and I am the Executive Director of the Association of Food and Drug Officials (AFDO). AFDO is an international, non-profit association that has served for more than a century as a trusted convener of food and medical product safety professionals across state, local, federal, tribal, territorial, academic, and industry sectors. AFDO's mission is to protect public health and safety by advancing uniform, science-based laws, regulations, and regulatory programs, and by strengthening collaboration across the integrated regulatory system that Americans rely on every day to keep food safe. Before joining AFDO in 2018, I spent over 15 years in state government, most recently as Bureau Chief for Food and Consumer Safety at the Iowa Department of Inspections and Appeals, where I oversaw the regulation of tens of thousands of food manufacturers and retail establishments. I hold a J.D. from Drake University Law School and have completed graduate coursework in food safety at Michigan State University. My testimony today reflects both AFDO's positions and practical experience with how federal regulatory decisions shape food safety programs on the ground.

We represent state and local food safety regulatory agencies across the United States that perform most of the food safety regulatory work. For example, 100% of retail inspections at restaurants, grocery stores and convenience stores are conducted by state and local inspectors. States also conduct all Grade A milk and shellfish inspections, over 93% of produce safety inspections, and nearly 90% of the food processing inspections in the U.S. Over 50% of the domestic federal manufactured food inspections that the U.S. Food and Drug Administration (FDA) reports to you each year, as a count of their annual inspections completed, are completed with state resources. Further, our members collaborate every day with FDA in compliance activities, emergency response, food recall verification, and foodborne illness investigations.

AFDO also collaborates with FDA on training inspectors, program quality, supporting information technology solutions, and many other areas to support state and local regulatory programs.

We are unique among regulatory associations working with food safety at the state and local levels: we were founded in 1896—predating the country’s major food laws—when we advocated for a strong federal food safety system, including the founding of what became the U.S. Food and Drug Administration.

AFDO’s Role in the Integrated Food Safety System

The United States maintains one of the safest food supplies in the world through an integrated food safety system, a system that relies on collaboration and mutual reliance among federal agencies, states, local governments, government laboratories, and industry.

AFDO and its members play a unique and essential role in this system. We serve as a bridge between policy and practice, ensuring that federal requirements can be implemented consistently and effectively across diverse state and local programs. AFDO supports effective coordination across the federal–state regulatory partnership by developing guidance, facilitating training aligned with federal standards, and creating forums where regulators and stakeholders can identify challenges and share solutions before small implementation issues become systemic problems.

Importantly, many federal food safety programs depend on state capacity to succeed. Federal reliance on state inspections, laboratory testing, and enforcement activities means that any changes to federal law—whether related to information sharing, program authorities, federal preemption, or ingredient oversight—have direct and immediate operational implications at the state level. Ensuring that these programs function effectively requires clear authorities, timely access to actionable information, and sustained investment in state and local regulatory infrastructure.

Implementation Considerations for Pending Food Safety Legislation

The Subcommittee’s focus on improving the food environment to support healthier outcomes aligns with AFDO’s long-standing commitment to a safe, trustworthy food supply. Achieving that goal depends

on a strong partnership between federal, state, and local governments, each playing its distinct role in regulation, oversight, and enforcement. States and FDA do not operate in parallel silos; they function as a connected system, relying on mutual trust, clear roles, and timely coordination. When that partnership works well, the food safety system can respond quickly and effectively to emerging risks. When it does not, the consequences are felt by consumers, regulators, and industry alike. For that reason, AFDO's comments today focus on two cross-cutting implementation issues that are central to the effectiveness of this shared enterprise: the need for timely, actionable federal–state information sharing during routine oversight and emergencies, and the importance of applying federal preemption carefully and deliberately so it strengthens—rather than inadvertently strains—the state–federal partnership that underpins food safety in the United States.

I. Improving Federal–State Information Sharing

We do believe that the United States' food safety system succeeds because it is a shared enterprise. State and local agencies exercise substantial independent authority to conduct inspections, enforce food safety laws, respond to outbreaks, and oversee recalls within their jurisdictions, while working in coordination with FDA to support national standards, consistency, and shared public health goals. But when timely, actionable information—especially product distribution information—is not shared during an outbreak, that partnership is strained. Delays in information sharing slow the removal of unsafe food from commerce, make it harder for state and local agencies and consumers to take action to prevent illnesses and deaths, and ultimately undermine confidence in the response. These gaps also create avoidable burdens for businesses, which are then forced to respond to duplicative information requests from hundreds of state and local agencies acting under their own authorities to obtain information that could have been shared once through a federal partner.

A. State and local agencies are the front line of food safety oversight

State and local agencies perform most of the inspections that keep the U.S. food system operating safely, supported by state laboratories that conduct more than 600,000 analytical tests of food and food-

related samples each year. More than half of all foodborne illness outbreaks in this country are associated with retail food establishments, schools, and other institutions, and 100 percent of these food service providers and events are inspected by state and local governments. States also conduct nearly all inspections of food manufacturers nationwide. That's typically 400% more domestic manufactured food inspections a year than the FDA conducts. This distribution of responsibility reflects capacity realities: as of July 2024, FDA had approximately 432 investigators responsible for conducting both domestic and foreign food inspections.

Beyond routine inspections, state and local agencies are often the first to respond when illnesses are reported, frequently serving as the initial point of contact for consumers, conducting initial investigations and implementing immediate control measures. Working with their state and local health colleagues, state food regulatory agencies also respond to reports of illnesses, sampling food to find – and to rule out – implicated products. The FDA also frequently relies on state authorities to expedite protective actions, including recalls and product removals, closures, embargoes, and related enforcement actions. These responsibilities reflect a deliberate division of labor within a shared food safety system—one that depends on sustained coordination and mutual reliance across federal and state partners. When any part of that shared enterprise is strained, operational pressures are felt across the system.

At the same time, the federal system faces real capacity pressures. The HHS Office of Inspector General has documented gaps in FDA's efforts to inspect domestic food facilities, including challenges in meeting statutory timeframes and reductions in inspection volume compared to pre-pandemic levels. These realities underscore an important point for policymakers: Congress already relies on state capacity as a functional pillar of national food safety, and that reliance is growing.

B. FDA's BRIDGE Project: Leveraging state inspection capacity to strengthen domestic oversight

In response to documented gaps in domestic inspection coverage and follow-up and seeking to maximize efficiency, FDA has taken concrete steps to strengthen oversight by more fully leveraging the

capacity of state regulatory programs in manufactured foods. A key outcome of this effort is FDA's BRIDGE Project—Better Regulatory Inspections for Dynamic Government Efficiency—which the agency has identified as a Human Foods Program priority for 2026. Initial implementation is underway, with national implementation planned by the end of 2030. This White House- initiated initiative will result in most routine domestic inspections being completed by state programs with FDA focused on highly technical and foreign inspections.

AFDO has supported this work by advancing state program adoption of the Manufactured Food Standards, which are ISO-like standards audited by FDA, facilitating training and program assessments, and serving as a convener between FDA and state partners as inspection models continue to evolve. This standards-based approach allows FDA to focus on national-level coordination of food safety efforts and oversight of highly sensitive industry segments, while state programs use nationally consistent standards to routinely inspect the broader domestic food production system. As BRIDGE expands, it will further integrate state programs into FDA's domestic inspection strategy, increasing reliance on state capacity to carry out federal priorities. That reliance must be matched with sustained federal investment in training, staffing, and program support; without resources following responsibility, BRIDGE will be difficult to implement effectively or equitably across states.

C. Modernizing the Federal Food, Drug & Cosmetic Act for secure, real-time federal–state information sharing

FDA's legal counsel has determined that changes to the Federal Food, Drug & Cosmetic Act are needed to enable secure, real-time federal-state information sharing. The success of any integrated inspection and response system ultimately hinges on information flow. In its description of an integrated food safety system, FDA emphasizes the importance of robust data integration and information sharing mechanisms among partners to support coordinated inspection, investigation, enforcement, and response activities. As inspection models evolve through initiatives such as the BRIDGE Project and states assume

an expanded role in routine inspections and related activities, the ability to share timely, actionable information among regulatory partners becomes even more critical.

However, as AFDO and a broad coalition of organizations, including key industry trade associations, consumer groups, and government organizations, have highlighted, FDA's current interpretation of the Federal Food, Drug & Cosmetic Act (FFDCA) has created practical barriers to timely collaboration. State authorities have been asked to conduct food safety investigations or take immediate regulatory action, only to receive information redacted in ways that hindered the state's ability to act under its own legal authority. In one example, a state was asked by the FDA to follow up on a grocery store complaint that the federal agency had received. The attached complaint documentation was completely redacted except for the grocery store name and location. When the state asked for more information, the FDA responded simply with a lengthy explanation of why it couldn't share anything further. In another example, a state was asked by the FDA to take enforcement action on a facility. The FDA frequently makes such mutual-reliance requests because states can often act more quickly under their own authority. However, in the documentation shared with the state, the FDA redacted the very things that were out of compliance, leaving the state with no evidence to act on.

One consequence of this restrictive posture is that state partners may be forced to use the Freedom of Information Act (FOIA) processes to obtain routine inspection reports that were previously shared more directly, undermining real-time coordination and efficiency. This restricted information-sharing also contributes to duplicative work, where federal and state inspectors unknowingly cover the same ground, and it increases the burden on industry by forcing repeated contacts and repeated requests for the same underlying information—challenges that will only intensify as federal–state inspection integration increases. Simply put, federal and state regulators have to be able to tell each other exactly what's wrong in a food facility.

Lead–Contaminated Cinnamon Applesauce: Information-Sharing Barriers in a Multistate Emergency

The 2023–2024 investigation into lead chromate contamination of cinnamon applesauce pouches for children illustrates how limitations on federal–state information sharing can complicate response during a rapidly evolving public health emergency. The investigation began when the North Carolina Department of Health and Human Services identified elevated blood lead levels in young children and linked illnesses to a commonly consumed snack product. State investigators quickly shared laboratory findings showing extraordinarily high lead levels with FDA, triggering a public health advisory and recall of a widely distributed, shelf-stable product intended for young children.

As the investigation expanded across jurisdictions, state and local agencies were responsible for identifying affected products at retail, verifying removal from commerce, and protecting consumers. However, timely access to complete product distribution information was limited, making it difficult for states to determine where recalled products had been shipped or sold within their jurisdictions, particularly given the product’s long shelf life and distribution through secondary markets. States stepped in to close critical information gaps, conducting their own investigations and engaging in direct peer-to-peer communication. While this cooperation reflects the strength of the integrated food safety system, it also highlights how legal and operational barriers to information sharing can slow response, fragment efforts, and reduce efficiency during emergencies affecting vulnerable populations.

These same information-sharing challenges emerged again in a subsequent national recall involving an even more acute public health risk—infant formula.

ByHeart Infant Formula Recall: Escalating Consequences of Fragmented Information Sharing

The ByHeart infant formula recall further underscored the public health consequences of fragmented information sharing when state and local agencies are expected to act quickly as frontline responders in a national emergency involving the most vulnerable consumers. The recall was initiated

following a California-led investigation that identified an unusual increase in hospitalized infant botulism cases and linked the illnesses to ByHeart powdered infant formula. Ultimately, the outbreak included 48 confirmed and probable cases of infant botulism across 17 states—an extraordinary and high-stakes response scenario that demanded rapid, coordinated regulatory action nationwide.

State and local agencies played a critical role in verifying product removal and protecting consumers at the point of sale. According to a real-time AFDO survey, states reported 1,986 recall effectiveness checks completed during the first week of the response, and 4,459 by the end of the third week, finding recalled infant formula still for sale in 7% of the retail locations they visited. During that same first week, FDA reported completing 21 recall checks.

Despite this level of state activity, the overall response was constrained by limited access to key information. FDA indicated that access to full retail distribution lists was limited to states operating under a 20.88 information-sharing agreement, which many states currently have, but few of the nearly 2,200 local agencies have. In practice, these agreements take time to negotiate and approve, are not intended to be initiated in the midst of an emergency, and do not scale efficiently for a nationwide response that requires rapid access by many jurisdictions at once. The agency further suggested that states without a 20.88 agreement conduct recall audit checks by visiting major retailers and reporting findings back, despite offering no information about where affected products were actually distributed. FDA also described developing a 20.91 memo to authorize sharing the retail distribution list to effectuate the recall, underscoring the need for workarounds due to current statutory constraints. Ultimately, many states and locals began sharing with one another the retailers where recalled products were still found on the shelves. The 20.91 even when expedited results in days of delay. Notably, the very information FDA is constrained from sharing often originates with state agencies that gathered and first provided it to FDA.

Taken together, these experiences underscore a central reality of today's food safety system: state and local agencies are already carrying out the frontline work that protects consumers, and FDA is taking important steps through initiatives like BRIDGE to strengthen efficiency and coordination, but when

information cannot move quickly and seamlessly across that partnership, it is ultimately consumers who remain at risk when the system cannot act as swiftly or effectively as public health demands.

II. Federal Preemption and State Law Considerations

AFDO and its members encourage the Subcommittee to apply federal preemption carefully and deliberately, and only in limited circumstances where it strengthens—rather than strains—the state–federal partnership that underpins food safety in the United States. Preemption can be valuable when there is broad agreement on a national standard, when it is narrowly scoped to a clearly defined purpose, and when the federal government fully assumes responsibility for maintaining the standard and ensuring effective implementation. In these cases, preemption must be paired with sufficient federal capacity or clearly delegated authority and funding for states to carry out enforcement responsibilities.

When these conditions are not met, rigid or overly broad preemption can undermine public health outcomes by slowing the incorporation of new science, reducing responsiveness to emerging risks, and creating unnecessary barriers to innovation. In practice, states may then act under their existing authorities to fill perceived gaps, not as a challenge to federal leadership, but as a response to delayed or incomplete federal action. A balanced preemption framework—one that is targeted, well-resourced, and adaptive—can preserve the benefits of national consistency while maintaining a food safety system capable of evolving with science and risk.

We emphasize that states remain best positioned to regulate and oversee the food industry in most circumstances. State and local agencies are closest to regulated establishments, have deep familiarity with regional production and distribution practices, are often first to identify and respond to emerging issues, and are better able to adapt oversight approaches in concert with an evolving food industry. For these reasons, federal preemption should be narrowly tailored to clearly defined areas of consensus and should preserve, rather than diminish, states' ability to act where federal standards do not exist or where local conditions warrant additional oversight. A balanced approach—one that respects state expertise while recognizing the value of national standards in limited contexts—is essential to maintaining a strong, effective, and trusted food safety system.

Conclusion and Offer to Assist

AFDO appreciates the Subcommittee's consideration of these issues and its continued leadership on public health and food safety. As Congress evaluates legislative proposals within your jurisdiction, we encourage careful attention to implementation, coordination, and the indispensable role of state and local agencies in protecting consumers.

AFDO and our members stand ready to serve as a resource to the Subcommittee as you continue your work to strengthen the nation's food safety system.