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## CAC Submits Comments on Food Safety Modernization Act

**O**n November 14, 2013, the Commission submitted comments to the Food & Drug Administration (FDA) on the proposed rules under the Food Safety and Modernization Act (FSMA), specifically, the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption (Produce Safety Rule).

The FSMA, which was signed into law in January, 2011, requires the FDA to ensure the safety of fresh produce distributed in the United States. The Produce Safety Rule, once finalized, will require that growers demonstrate compliance with certain practices, policies and procedures to ensure the safety of their product. The draft Produce Safety Rule is an exhaustive proposal totaling 547 pages.

Fortunately, California avocado growers who have been audited under the CAC-GAP program, will likely show compliance with a majority of what is proposed under the Produce Safety Rule. There are a few sections of the Rule, though, that in the Commission's opinion would, as currently proposed, not improve the safety of the produce, yet place unnecessary requirements on growers. The Commission's comments were drafted by CAC President Tom Bellamore and me, and addressed the following areas:

**Dropped Produce** (Proposed §112.114) – As proposed under the Produce Safety Rule, dropped produce could not be distributed and would include any product that comes in contact with the ground, unless it naturally grows on or in the ground. The Commission maintains that dropped produce should not apply to avocados that may be placed onto the ground during the harvesting process, nor to avocados that drop to the ground because of extreme winds since the fruit is still hard and green, and may be released for marketing in accordance with state regulations.

**Agricultural Water Definition** (Proposed §112.41) – The Commission submitted comments supporting the finalization of Proposed §112.41, which, as written, provides for an exemption for crops where irrigation water is not intended to, or is not likely to, contact the produce. It is the Commission's position that the indirect water application methods in irrigating avocado trees would not be subject to the requirements of the FDA's final rule since the majority of fruit does not come in contact with irrigation water.

**Agricultural Water Testing Frequency** (Proposed §112.45) – As proposed under the Produce Safety Rule, the establishment of requirements related to the testing frequency of "agricultural water" fails to

appropriately consider the growing season for avocados. We believe timing of water testing should coincide with the harvest period. The Commission believes that an alternative standard-based on an application interval would be more meaningful to guide testing frequency, and that as proposed, §112.45 does not presently make an allowance for ground water testing frequency dependent upon historical test results. The Commission supports such an approach. Water that would be considered "agricultural water" and subject to the testing requirements, as defined by FDA, may include water used for preparing crop protection sprays, water used to clean equipment and tools, and hand washing water, but would not include water used for irrigation based on Proposed §112.41.

The FDA is currently reviewing the hundreds of comments submitted. There is speculation that the FDA will release another draft proposal based on the significant amount of comments received and overall concern with many aspects of the proposed Rule. The Commission will keep a watchful eye as the process continues to unfold and remain engaged to ensure the FDA hears the concerns of California's avocado growers. 🥑