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August 7, 1997

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Dwight-Jared Smith
PA Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408

RE: Proposed Rulemaking
Department of Agriculture
Bureau of Food Safety and Laboratory Services
7 Pa. Code Chapter 83
Food Employee Certification
I.D. No. 2-107

Dear Mr. Smith:

As Chairman of the House Agriculture and Rural Affairs Committee, I appreciate the opportunity to offer comment on the above referenced proposed regulations. I was fully supportive of the Food Employee Certification Act when it was before the Legislature and the Department and the key individuals from the Bureau of Food Safety are to be commended for developing proposed regulations which very closely mirror the intent of that legislation.

Nonetheless, after reviewing the proposed regulations, I feel that there are several areas which need further review and/ or clarification. Therefore, I respectfully call your attention to the following points:

1. The Act calls for "industry-specific training programs." This distinction is reflected in much of the proposal. Section 83.3(a) establishes industry-specific categories of food establishments; Section 83.3(b) establishes the requirement that each establishment employ a supervisory employee who is certified with respect to that

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industry-specific category; Section 83.5 says the Department will approve a certification program if it addresses an industry-specific category of establishment; Section 83.10(b)(4) requires that an individual indicate on their application for certification which category the certification is for.

There is, however, no reference to this industry-specific distinction in Section 83.7 dealing with training standards for certification programs. Is it the intent of the Department that the standards specified in great detail in 83.7(b) through 83.7(h) are generic to all categories? If that is the case, what reason is there to establish the industry-specific categories of establishments and certification? Without any requirement for specialized training, what is the reason for specific categories?

Also on this matter, a question arises with use of the term "training program" in Section 83.7(a) entitled "Certification Program." Is it intended that a "training program" and "certification program" are the same thing? Would use of the term "certification training program" be more accurate?

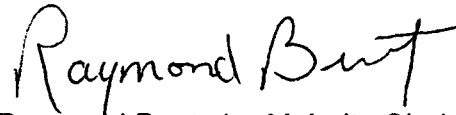
2. Section 83.17 deals with preemption and local authority. This matter is addressed to a certain extent in the Act, but primarily only with respect to Section 83.17(a). A complementary working relationship between state and local programs is essential to the statewide success of this program and having the parameters of this relationship clearly stated in the regulations reduces the potential for future confusion and conflict. It would be useful if the Department would explain more fully the intent of 83.17(b), (c) and (d) and perhaps reword these subsections in the interest of greater clarity.

3. The regulatory proposal appears to be silent on the matter of the responsibility of food establishments, and more specifically certified employees, after becoming certified in accordance with the procedures outlined. To what extent, if any, are the employees obligated to implement policies, procedures or techniques covered in the certification training? What is the responsibility of the establishment itself in this regard? How does this relate to Section 83.19 (Civil Penalties) which specifies penalties for any "person or establishment" for violations of the Act. Additional clarification by the Department on this matter would be helpful to all parties subject to these proposed regulations.

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I once again thank the Department for the effort put forth in developing these proposed regulations and for the opportunity to offer comment. I look forward to final regulations which reduce the risk of food-borne illness for all residents of the Commonwealth.

Sincerely,



Raymond Bunt, Jr., Majority Chairman
Agriculture and Rural Affairs Committee

RB/bg

cc: Robert E. Nyce, Executive Director ✓
Independent Regulatory Review Commission