



**US Department of Agriculture Marketing Service Hearing:
Proposed National Leafy Green Marketing Agreement**

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The Center for Food Safety (CFS) would like to thank the USDA Agriculture Marketing Service for this opportunity to speak on a proposed marketing agreement to cover the handling of leafy green vegetables and products in the U.S.

CFS is a non-profit, environmental and consumer advocacy organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. Our constituency is comprised of people across the country who actively engage in public policy debates on organic agriculture, sustainable food production technologies, and food safety. They support organic agriculture in their communities by consuming organic food from farmers' markets, grocery stores, as shareholders in Community Supported Agriculture (CSA) farms and, increasingly, by growing their own food and promoting organic food purchases in schools and other local institutions.

CFS is here today to express its strong reservations about the establishment of a National Leafy Green Marketing Agreement (NLGMA) as a means to address growing food safety concerns in the U.S. We do not believe that the marketing arm of USDA is the appropriate institutional home within government for developing and enforcing food safety standards. According to the AMS website, its role is to "administer[s] programs that facilitate the efficient, fair marketing of U.S. agricultural products," and to "assist in the orderly marketing and distribution of farm commodities." No where is food safety mentioned as a part of its mission or mandate. Moreover, AMS staff are economic and marketing specialists, not trained in matters of food safety. Since food safety is a public health issue and not a marketing issue, we believe that the authority to regulate and oversee food safety should rest with the U.S. Food and Drug Administration (FDA) in coordination with the U.S. Department of Agriculture (USDA).

Adopting the proposed NLGMA is also beyond the scope of the Agriculture Marketing Agreement Act of 1937 (AMAA). The law authorizes AMS to create marketing orders in order to "establish and maintain such orderly marketing conditions for agriculture commodities in interstate commerce," and to create price parity and stability in the marketplace. The AMAA authorizes the adoption of policies to regulate market prices and to facilitate the sale of US farm products. The

AMAA, however, does not authorize the adoption of policies to address matters of food safety. To adopt such measures violate the AMAA by exceeding the statutory authority contained in the law.

Industry-proposed marketing agreements, such as the one we are here to discuss today, do not allow for adequate transparency and have much less public accountability than government-developed, directed, and enforced food safety programs. The public has the right to know how and where their food is grown and this right is more likely to be preserved through a federal rulemaking process than by an industry-driven agreement, without representation from the organic sector or consumers, and without public accountability. In fact, the public's right to know could be stifled by the implementation of an NLGMA in which industry members who develop the agreement also decide who will join their oversight and advisory committees, instead of opening up membership to a fair, open, public, and impartial application process. CFS believes that the development of a comprehensive food safety program is the job of our elected officials in Congress. They represent, and are directly accountable to, their constituents — the eating public. FDA should be the lead agency for the development of food safety standards on farms, where needed, in close coordination with USDA. And, USDA should be the lead agency for the implementation and enforcement of those farm standards.

While CFS wholeheartedly supports the creation of better guidance and training to promote food safety and more stringent oversight and regulation for food production, processing, and handling systems, we are deeply concerned about the potential negative effects on the environment and organic agriculture associated with the adoption of the national LGMA. We also wholeheartedly support the government and leafy green industry in taking swift action to prevent future food borne illnesses, but we expect that it will not be done at the expense of small and medium-sized farms, diverse cropping systems, wildlife and their habitats, biodiversity conservation, and clean waterways, particularly in the absence of science-based evidence to support those actions.¹

In what is known as the “salad bowl” of the Central Coast of California, farmers grow over 200 crop varieties, including 82,000 tons of lettuce from Monterey’s Salinas Valley alone. This fertile bowl is uniquely situated within the watersheds of the Pajaro River, Salinas River, and Elkhorn Slough which empty into the Monterey Bay Marine Sanctuary, the largest, protected marine area in the U.S. The climate and fertile soil of the Central Coast allows for year round production of a diverse range of crops. Unfortunately, this productive landscape has become increasingly scarred and watersheds threatened as farmers degrade the natural environment in an attempt to comply with the California’s LGMA requirements. This is taking place even despite the lack of scientific evidence that these actions will achieve the desired results of enhanced food safety.^{2,3,4} In the Salinas Valley, for example, after the 2006 E. Coli: 0157: H7 contamination of spinach was made public one could find piles of dead trees; grasses surrounding farms scraped bare; riparian habitats removed; extensive

¹ Starmer, Elanor & Marie Kulick. (2009) “Bridging the Gaps, Strategies to Improve Produce Safety, Preserve Farm Diversity and Strengthen Local Food Systems, Food & Water Watch and Institute for Agriculture and Trade Policy.

² Stuart, Diana, Carol Shennan, & Martha Brown. (Fall 2009) “Food Safety versus Environmental Protection on the Central California Coast: Exploring the Science Behind Apparent Conflict,” The Center for Agroecology and Sustainable Food Systems, University of California, Santa Cruz, Research Brief #10.

³ Coke, Dale. (July 29, 2009) “Ready-to-Eat or Not: Examining the Impact of Leafy Green Marketing Agreements,” testimony presented to Domestic Policy Subcommittee on Oversight and Government Reform, U.S. House of Representatives.

⁴ Lochhead, Carolyn. (July 13, 2009) “Crops, pond destroyed in quest for food safety,” *San Francisco Chronicle*.

fences built around property lines, disrupting the movement and feeding of wildlife; ponds bulldozed or sterilized with copper sulfate to kill frogs; and vegetative windbreaks destroyed, all to the detriment of the Salinas Valley Watershed.⁵ It is worth noting that this past Friday more than 1,700 boxes of spinach were recalled from a Salinas Valley distributor who is a signatory to the California LGMA.⁶ Despite claims from large processors of leafy greens that recalls will increase because of “ramped up routine inspections,⁷” such recalls do not provide evidence or public assurance that the source of contamination is being directly addressed and eliminated.

For CFS and its supporters, food safety is not just about eliminating microbial contamination from farms and processing facilities, it is also about looking at the full spectrum of factors that impinge upon delivering safe, nutritious, affordable, fresh food to consumers across the U.S. and abroad. Factors that have been overlooked in California’s LGMA include: the adverse effects on farmworker, community, and environmental health of applying large doses of synthetic toxic pesticides and fertilizers on farms; water pollution from large livestock and poultry operations; the removal of beneficial insect and predator habitats that diminish the need for toxic pesticides; and the non-therapeutic use of antibiotics in livestock raised in confined animal feeding operations (CAFOs) which contribute to widespread antibiotic-resistant pathogens that find their way into consumers’ salads. All of these factors negatively impinge upon food safety but have been left out of California’s LGMA, which is purported to be the model for the NLGMA.

Factors that enhance food safety have been disregarded in California’s LGMA as well, such the planting of trees, shrubs, and grasses to filter pathogenic dust and pesticides and to protect against agriculture run-off into waterways; intercropping on farms to attract beneficial insects and pest predators; and the use of green manures to build biologically active soils that fight and degrade pathogens. These types of biodiversity conservation measures, among others, are required on organic farms. In fact, the National Organic Standards Board recently adopted a plan to comprehensively address biodiversity with the full support of the National Organic Program.⁸ In accordance with the Organic Foods Production Act (OFPA), organic farmers, by the very nature of how they grow food, reduce food safety hazards because they are prohibited from applying contaminated sewage sludge on farmland, and using toxic, synthetic herbicides and pesticides. Organic farmers who use compost to build soil fertility follow strict organic rules for handling, testing, and applying manure-based compost on certified organic land to prevent pathogens such as *E. coli* 0157: H7. They are also in a better position to quickly identify the potential source of contamination due to their extensive record keeping requirements, mandated by the organic rules. In addition, organic inspectors who are intimately familiar with the practices of their organic farm clients could be trained to inspect for compliance with federally-mandated, food safety standards and become government-deputized, food safety inspectors on organic farms.

Critical social factors that are integral to delivering a nutritious and sustainable food supply to consumers across the country must be carefully considered in discussions about how to improve our nation’s food safety. In particular, the critical role small and medium-sized farmers play in delivering

⁵ (http://www.wildfarmalliance.org/Press%20Room/press_room_destruction.htm)

⁶ Melendez, Claudia. (September 18, 2009) “Spinach recalled after salmonella test,” *Santa Cruz, Sentinel* (http://www.santacruzsentinel.com/localnews/ci_13367245).

⁷ Ibid.

⁸ National Organic Standards Board Joint Crops & Compliance, Accreditation, and Certification Committee. (March 5, 2009) “Implementation of Biodiversity Conservation in Organic Agriculture System.” (<http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5075826&acct=nosb>)

fresh and healthy food to their communities must be added to the discussion as well as their contribution to the local economy. This necessitates the creation of flexible food safety programs rather than a one-size-fits-all approach which discriminates against these vital contributors to our food supply and economy. Small and medium-sized growers that do not co-mingle their produce with other growers and that sell non-bagged, leafy greens presents less risk to the food eating public than larger growers that mix and bag their leafy greens. As we have seen is the case with recalls of leafy greens, the large majority of illnesses and deaths from eating leafy greens comes from large handlers that mix products from many different growers and bag them for shipping to stores across the country.^{9,10} The contribution that small and medium-sized farmers make to maintaining food safety in the leafy greens industry is not acknowledged or accounted for by the drafters of California's LGMA. As an intended model for the NGLMA, these same biases are likely to be reproduced in LGMA, particularly if it is drafted by some of the same authors who have personal stakes in the industry.

Consumers who buy organic food expect that it is grown in a manner that conserves biodiversity and enhances the natural ecology within which it is grown, in accordance with the National Organic Program (NOP). Research has shown that organic consumers deliberately choose to use their food dollars to support organic and non-industrial agriculture systems. Measures that negatively impact the natural environment, as have been seen since the implementation of California's LGMA, are incompatible with organic farming, particularly with respect to biodiversity conservation. They are also incompatible with the values of the organic food consuming public.

In conclusion, CFS believes that food safety is not just about eliminating microbial contamination from farms and processing facilities. It is also about looking at the full spectrum of factors that impinge upon delivering safe, healthy food to consumers across the US and abroad. It's about the ability of our nation's farmers to meet the caloric and nutritional needs of every person in the US, and being able to support themselves and their families in doing so. It's about sustaining and enhancing the environment, the economy, and the communities where food is grown. And, it's about safeguarding farmworker health, the natural environment and its inhabitants, and the ethical treatment of wildlife and farm animals.

CFS does not believe that these values and practices that underpin a safe food system can be preserved with the introduction of a national, industry-driven LGMA. Our nation's food safety interests are best served through the development of an integrated, transparent, food safety program at the federal legislative level with strict government oversight, funding for education, training, and enforcement, and with flexibility for implementation that allows diverse, sustainable farms of all sizes and configurations to thrive across the country.

Thank you.

⁹ (Starmer & Kulick, 2009)

¹⁰ (Coke, 2009)