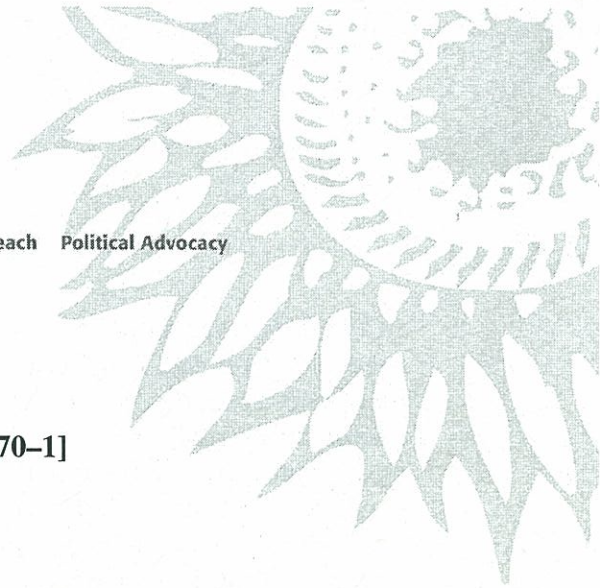




CCOF

Organic Certification Trade Association Education & Outreach Political Advocacy



September 23, 2009

7 CFR Part 970

[Docket No. AO-FV-09-0138; AMS-FV-09-0029; FV09-970-1]

Leafy Green Vegetables Handled in the United States; Hearing on Proposed Marketing Agreement No. 970

CCOF would like to thank the USDA Agricultural Marketing Service for this opportunity to comment on the **Proposed Marketing Agreement No. 970, Leafy Green Vegetables Handled in the United States.**

CCOF is a nonprofit organization founded in 1973 and is one of the oldest and largest organic certification agencies in North America. We serve as a trade association for more than 2300 certified organic producers and processors as well as 350 supporting members, in 35 states and in 3 other countries. Seventy four percent of our members are farmers or producers, with 26% being handlers or processors.

Because of the diversity of our clientele with regard to both type of business and size of operation, we represent a few members who strongly support the development of a National Leafy Greens Marketing Agreement (NLGMA), and many members who strongly oppose the development of an NLGMA. A few of our processor members are integrally involved in California's LGMA, with more processor members being signatories in CA LGMA. Quite a few of our farmer/producer members have been struggling with the CA LGMA's impact on their farming practices since its inception. As a certification organization, we are sometimes frustrated with CA LGMA since it is often in direct conflict with organic practices. As a trade association trying to represent all of our members fairly, we therefore must remain NEUTRAL on whether or not there should be a National Leafy Greens Marketing Agreement.

CCOF cautions that the National Leafy Greens Marketing Agreement being proposed is not the only tool to protect consumers from food borne illnesses or unsafe food. A marketing agreement is essentially formed in order to increase the market share of a particular product. In the case of the NLGMA, the ultimate goal is to provide processors and handlers with the ability to ensure their markets and their consumers that their products are safe and therefore worthy of being purchased. CCOF will continue to educate our members, consumers and government representatives that the NLGMA is essentially about marketing a product, not solely about creating and enforcing food safety laws or regulations. As certifiers of organic farmers, CCOF also believes that a key component of safe food is food that is free of toxic chemicals. Pesticide-contaminated food does not necessarily cause short term illnesses, but certainly causes cumulative negative health effects in the long term. We focus our efforts on food safety measures before Congress and in the California Legislature, as well as on efforts that uphold an organic growing system that protects our food from these toxic chemicals.

EX-26

CCOF feels that **existing** food safety laws and regulations on local, state and federal levels need to be enforced, which requires adequate funding. Much of the food borne illnesses experienced recently have occurred because of a lack of enforcement capability by current staffing levels of enforcement agencies. Sadly, for years, Congress has chosen to not appropriate adequate funding for USDA or for FDA, whose ranks of inspectors have continued to decline in numbers that is troubling. Voluntary industry-led marketing agreements should not be the only way that food safety is carried out. The federal government needs to do its part also.

Many of the serious concerns that some of our members feel about the NLGMA comes from first-hand experience with California's Leafy Greens Marketing Agreement. Not only is it costly to implement (see UC Davis Small Farm Program research study, "Growers Compliance Costs for the Leafy Greens Marketing Agreement and Other Food Safety Programs,") but it has in some instances led to farming practices commonly referred to as "scorched earth" farming. This farming approach conflicts with organic production methods, including the use of compost and other time-honored organic fertilizing practices, the elimination of beneficial insect habitats in vegetated buffers, the degradation of conservation practices and watershed-protection efforts used for erosion control and other environmentally friendly farming practices.

Reference USDA National Organic Program Standards 7 CFR Part 205
Section 205.203, Soil fertility and crop nutrient management practice standard
Reference California Public Contract Code, subsection © of Section 12207

The CA LGMA has lead to organic practices suffering, since some of California's farmers have ignored organic production principles to meet the perceived requirements of the processor or even of the retailer, or at the encouragement of a food safety inspector, in order to maintain their market. There is a great fear that the NLGMA will exacerbate this problem by creating the same set of circumstances on a national level.

Whether or not these "scorched earth" farming practices are dictated in the CLGMA metrics, they have been used to the detriment of California's biodiverse environment and in some instances at great risk to an organic farmer's organic certification. An understanding of current research, as well as funding for further research into whether scorched earth practices actually improve food safety is crucial, before any metrics are developed under the proposed NLGMA. Although nothing in the NLGMA proposal speaks directly to farming practices, since those details will be left to the development of metrics, CCOF would like to have the record reflect that the concern about "scorched earth" practices should to be considered seriously during this process.

Following are comments on specific sections of the draft NLGMA proposal.

Sections 970.40-54

CCOF asks that there be a proportionate number of certified organic slots on the Leafy Green Vegetable Administrative Committee to the amount of organic leafy greens sold at retail. Approximately 15 percent of leafy greens in the US are organically grown, so the Administrative Committee membership should reflect that fact, and allow for 4 of the slots to be filled by certified organic representatives. The presence of organic representatives will help avoid unintended consequences as audit metrics are being developed.

CCOF requests that the Leafy Green Vegetable Administrative Committee be charged with considering the impact of any recommendations on small-scale and diversified farms, and on wildlife habitat, conservation practices, watershed-protection efforts, and organic production methods. Regarding organic production methods, CCOF requests that the Leafy Green Vegetable Administrative Committee be required to provide ways for organic farms to meet any recommendations within the agreement without jeopardizing their organic status under the National Organic Program rule.

Reference USDA National Organic Program Standards 7 CFR Part 205
Section 205.203, Soil fertility and crop nutrient management practice standard
Reference California Public Contract Code, subsection © of Section 12207

Sections 970.66 and 970.67

Please see comments under Section 970.9

Section 970.75

Any promotion program should provide a generic promotion under Section 970.75 for organic leafy greens in proportion to the total assessment.

Section 970.46

CCOF is very concerned that small farmers may lose access to local markets if those markets do not provide flexibility in contracts. While we realize that retailers and direct marketers are not handlers under this proposal and are therefore not signatories to the agreement, we are very concerned about this likely consequence, which has already occurred in California under its Leafy Greens Marketing Agreement. Please see our comments under Section 970.45-54. To ameliorate for this possibility, it might seem logical to recommend that the Market Review Board consist of at least 2 representatives of small scale operations who can continue to educate other components of the leafy greens industry about how important this issue is to the health and diversity of the industry. Although that approach is better than

nothing, it is crucial to remember that small-scale producers simply do not have the time or capacity to participate in meetings, since when they're away from the farm, they're not farming and therefore have no income.

Thank you again for this opportunity to testify. We welcome your questions or comments.