

September 24, 2009

Hearing on Proposed Marketing Agreement # 970
Agricultural Marketing Service USDA

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Thank you for the opportunity to comment on the Proposed Marketing Agreement for Leafy Greens. My company, Veritable Vegetable, is a 35 year old regional produce distributor that has concerns about the proposed rulemaking for several reasons. We service independent retailers by representing small, mid-size, independent and family farms; we work with over 800 growers, most of them directly. We are a NOP certified organic handler, selling and distributing fresh produce throughout California, Arizona, New Mexico, southern Colorado and Hawaii. Our growers, our customers, our business, and the environment would suffer if these proposed rules were adopted nationally.

As a supporter of environmentally sustainable, local food systems and mid-size organic farmers, we strongly urge the USDA to eschew "one-size-fits-all" requirements, especially when such guidelines are not evidence-based and are written by and for large-scale operations.

We do not believe that Marketing Orders or Marketing Agreements are appropriate models for protecting food safety on a national scale. Food safety is an important issue, particularly for anyone in business in our food system. While producers and handlers can help provide technical information and best practices, the safety of our food supply can not be monitored or regulated by industry alone. Agreements designed for individual crops or groups of commodities can not be simultaneously effective unless they are part of a single science based food safety system. Such a system should apply appropriate regional standards considering growing conditions, water quality, climate and environmental quality. What will prevent any market based group from designing conflicting so-called safety standards and protocols in the future? Production and handling would be a chaos, and this proposed agreement, and the Leafy Green Marketing Agreement in California, from which it takes its lead, is already an example of such chaos.

To truly develop a best practices food safety program, cooperation from all sectors of industry, including academia, public agencies, water quality boards, USDA Natural Resources Conservation Service, UC Extension, the EPA, as well as distributors and farmers of all sizes, is needed. I want to stress cooperation. Any standards, guidelines or metrics for agriculture must not have unintended negative environmental

consequences, and does not need to be in conflict with conservation and fish/wildlife and habitat protection efforts. We can achieve development of such best practices based on sound food safety, agricultural and environmental science if we all work together. This process has not happened with the current proposed regulations. To establish a board of the largest processors and handlers, primarily from one specific agricultural area, to dictate farming practices for large and small farms all over the country is inappropriate. I don't see an appropriate representation of diversity in the proposed board you are considering.

We recommend an approach to address food safety that is focused on the pre-cut salad industry. FDA's data on E.coli 0157:H7 contamination shows it comes predominantly from "fresh-cut" bagged salad products, and not from traditional whole leaf and greens. The very term "leafy greens" was made up just a few years ago, and was not common parlance in my 32 years of experience in produce; it is not clearly defined or understood. Does it apply to foods that are only eaten raw? It seems it is a catch all phrase that is directly related to fresh cut salad mixes and bagged convenience salads. Are herbs and cabbages leafy greens? Even if the USDA were to require standardized growing practices, such standards should apply only to large-scale suppliers of "fresh-cut" bags of leafy greens, and exclude whole greens and vegetables that have never been implicated in an E.coli 0157:H7 outbreak. Veritable Vegetable sells "retail ready" salad greens and bagged spinach, and other fresh-cut products, and we would support such an approach.

Recently the Almond Board adopted a problematic requirement for fumigation of raw almonds without vetting the standards with organic or sustainable almond producers. Although it may seem like a small sector of the almond industry as a whole, our customers who sell raw organic almonds are now buying imported almonds because fumigation is only required for domestic product. It was the result of a salmonella outbreak in one of the largest almond producers which caused a rush to create a "food safety standard" to prevent consumer distrust, in this case mandated and not voluntary, and not reasonable. Is each crop going to undergo an unscientific approach without exploring alternative solutions?

The needs and circumstances of small scale and mid-scale farmers must be considered to avoid putting them at an unfair competitive disadvantage. For example, if the rules would require expensive testing for pathogens at every harvest; smaller, more diverse farms that continually harvest many types of vegetables throughout the season would carry an untenable economic burden. To require mid-size and organic farms to follow the same rules as the large-scale operations that have been responsible for past widespread contamination is discriminatory, and would endanger a vibrant and thriving sector of our economy, the local, organic or sustainable family

farm. Such farms are innovative in agriculture and conservation practices, but are still vulnerable economically, as all independent businesses are.

Our company has been part of, and worked hard to establish, the organic food industry since 1974. I personally remember the day when one of our customers, Alice Waters, chef at Chez Panisse restaurant and one of our suppliers, Warren Weber, from Star Route Farms, showed me “mesculin mix” in a plastic container and asked if I thought there was a market for it. It was this organic innovation that has rapidly grown into the “spring mix” we all know and enjoy today. Surely farms and businesses should be rewarded and respected for their vision and creativity, and not disregarded as “too small” to count. Our local and national economic vitality relies on small and mid-size businesses, and appropriate representation at the table for regulations and market agreements is critical.

We do business with growers who have voluntarily signed on to the existing LGMA. However many of these growers have confided they were given “no choice” to retain business with major retail chains demanding compliance. Smaller growers have not participated for many reasons, including an inability to pay the costs, fees and water quality testing requirements that the LGMA demands. As one mid-size farmer on the Central Coast of California said to me last Monday, “what am I going to do? Aside from my home ranch I have 11 other properties that I lease for production. That is a total of 12 different water sources. How can I afford to test 12 separate water sources with any regularity?” I have heard several growers wonder how much longer they can continue to produce food under the ongoing pressures of suburban sprawl, rising costs of water and labor, increasing regulations and now marketing agreements which do not take their scale into consideration. Without farmers, we have no product to sell or food to eat.

We know many growers who do business with retail chains that are competing by making different food safety claims, claiming their standards are “more safe”, and to have bested USDA Good Agricultural Practices audit protocols. The proposed agreement would do nothing to curb the continuing escalation of multiple standards. These growers have “audit fatigue” already. Participation in multiple audit schemes causes financial burden and higher production costs, resulting in price hikes, which ultimately are passed on to everyone in the system regardless if they buy bagged salads or support convenience packaging.

Appropriate guidelines, suitable for many of the small diverse farms that we deal with, have not yet been developed. We urge you to take sustainable conservation practices into consideration in any proposed rules; wetlands protection and microbial diversity in soil have been found to reduce pathogens and improve water quality, thus creating a

safer food system and healthier environment. The USDA must do what it can to stop this war on Nature.

Thank you for your consideration.